MONTANA LEGISLATIVE HISTORY

Chapter 634 19 99

Bill H 150 S _____ Original bill & history H C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	1/18	H C	Hearing Date(s)	3/22	X C
	1/29	H C		3/26	X C
	2/5	X C			C
	3/12	C			C
Date Out		C			

Did this bill originate in an interim committee? ___ Yes X No

Committee _____ Report _____

CHAPTER NO. 634

HOUSE BILL NO. 150

INTRODUCED BY FABREGA, HUENNEKENS, WILLIAMS, FAGG, SIVERTSEN, VINCENT

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 13, 1979	Introduced and referred to Committee on Taxation.
March 12, 1979	Committee recommend bill do pass as amended. Report adopted.
March 14, 1979	Printed and placed on members' desks.
March 15, 1979	Second reading, do pass.
March 16, 1979	Considered correctly engrossed.
March 17, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

March 19, 1979	Introduced and referred to Committee on Taxation.
March 26, 1979	Committee recommend bill be concurred in as amended. Report adopted.
	Statement of Intent adopted.
March 27, 1979	Second reading, pass consideration.
March 28, 1979	Second reading, concurred in as amended.
March 30, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 30, 1979	Returned from second house. Concurred in as amended with Intent statement.
April 2, 1979	Second reading, amendments adopted.
April 3, 1979	Third reading, amendments adopted. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 150

INTRODUCED BY [signatures]

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE METHOD OF TAXING BANKS AND SAVINGS AND LOAN ASSOCIATIONS FOR LOCAL GOVERNMENTS; REMOVING THE CORPORATION LICENSE TAX EXEMPTION FOR INTEREST FROM STATE AND LOCAL OBLIGATIONS; REPEALING THE TAX ON MONEYED CAPITAL AND SHARES OF BANKS; PROVIDING FOR A DIFFERENT METHOD OF COLLECTING AND DISTRIBUTING CORPORATION LICENSE TAXES PAID BY BANKS AND SAVINGS AND LOAN ASSOCIATIONS; AMENDING SECTIONS 7-6-206, 15-1-501, 15-8-104, 15-8-111, 15-24-701, 15-24-801, 15-31-101, 15-31-114, 15-31-502, 17-5-408, 20-9-343, AND 32-1-413, MCA; REPEALING SECTIONS 15-6-106, 15-24-501 THROUGH 15-24-508, AND 15-24-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. The legislature recognizes that the property tax on moneyed capital and bank shares is an important element in the tax bases of many local governments. Since, however, the current method of valuing bank shares has legal defects, may be causing the undercapitalization of Montana's banks, and imposes an inequitable tax burden on some financial institutions, the legislature hereby repeals this tax. Banks and savings and loan associations will be taxed on a more equitable basis, their net income. To make their basis for computing net income comparable to other businesses, the legislature repeals the corporation license tax deduction for interest on public obligations. To replace the property tax revenue lost to local governments, all corporation license taxes paid by banks and savings and loan associations will be collected by counties and distributed to the various local governments, based on their current mill levies.

Section 2. Section 15-31-101, MCA, is amended to read:

"15-31-101. Organizations subject to tax. (1) The term "corporation" includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity, and all other corporations whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country, or the United States.

(2) The terms "engaged in business" and "doing business" both mean actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(3) Every corporation, except as hereinafter provided and except as provided in 33-2-705(5), engaged in business in the state of Montana shall annually pay to the state treasurer as a license fee for the privilege of carrying on

business in this state such percentage or percentages of its total net income for the preceding taxable year at the rate hereinafter set forth. In the case of corporations having income from business activity which is taxable both within and without this state, the license fee shall be measured by the net income derived from or attributable to Montana sources as determined under part 3. This tax is due and payable on the 15th day of the 5th month following the close of the taxable year of the corporation; however, the tax becomes a lien as provided in this chapter on the last day of the taxable year in which the income was earned and is for the privilege of carrying on business in this state for the taxable year in which the income was earned.

(4) Every bank organized under the laws of the state of Montana, ~~or~~ of any other state, ~~and or every national bank organized under the laws~~ of the United States and every savings and loan association organized under the laws of this state or of the United States ~~are~~ is subject to the Montana corporation license tax provided for under this chapter. For taxable years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548)."

Section 3. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. In computing the net income, the following deductions shall be

allowed from the gross income received by such corporation within the year from all sources:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed

for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) (i) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of this subsection. The net operating loss deduction is the aggregate of net operating loss carryovers to such taxable period plus the net operating loss carrybacks to such taxable period. The term "net operating loss" means the excess of the deductions allowed by this section, 15-31-114, over the gross income, with the modifications specified in (ii) of this subsection. If for any taxable period beginning after December 31, 1970, a net operating loss is sustained, such loss shall be a net operating loss carryback to each of the three taxable periods preceding the taxable period of such loss and shall be a net operating loss carryover to each of the five taxable periods following the taxable period of such loss. A net operating loss for any taxable period ending after December 31, 1975, in addition to being a net operating loss carryback to each of the three preceding taxable periods, shall be a net operating loss carryover to each of the seven

taxable periods following the taxable period of such loss. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the net income for each of the prior taxable periods to which such loss was carried. For purposes of the preceding sentence, the net income for such prior taxable period shall be computed with the modifications specified in (ii)(B) of this subsection and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any taxable period thereafter, and the net income so computed shall not be considered to be less than zero.

(ii) The modifications referred to in (i) of this subsection shall be as follows:

(A) No net operating loss deduction shall be allowed.

(B) The deduction for depletion shall not exceed the amount which would be allowable if computed under the cost method.

(C) Any net operating loss carried over to any taxable years beginning after December 31, 1978, must be calculated under the provisions of this section effective for the taxable year for which the return claiming the net operating loss carryover is filed.

(iii) A net operating loss deduction shall be allowed only with regard to losses attributable to the business

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carried on within the state of Montana.

(iv) In the case of a merger of corporations, the surviving corporation shall not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity shall not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

(v) Notwithstanding the provisions of 15-31-531, interest shall not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

(vi) The net operating loss deduction shall not be allowed with respect to taxable periods which ended on or before December 31, 1970, but shall be allowed only with respect to taxable periods beginning on or after January 1, 1971.

(3) In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements; such reasonable allowance to be determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for

corporation license tax purposes shall be the same as the elections made for federal income tax purposes.

(4) The amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this part.

~~(5) Interest income from obligations of the state or any political subdivision or municipality of the state.~~

~~(6)~~(5) (a) Taxes paid within the year except the following:

(i) Taxes imposed by this part.

(ii) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

(iii) Taxes on or according to or measured by net income or profits imposed by authority of the government of the United States.

(iv) Taxes imposed by any other state or country upon or measured by net income or profits.

(b) Taxes deductible under this part shall be construed to include taxes imposed by any county, school district, or municipality of this state.

~~(7)~~(6) That portion of an energy-related investment

allowed as a deduction under 15-32-103."

Section 4. Section 15-31-502, MCA, is amended to read:

"15-31-502. Assessment and payment of tax, penalty, and interest. All taxpayers shall compute the amount of tax payable under this chapter and shall remit such amount to the department of revenue, except as provided in [section 5], on or before the 15th day of the 5th month following the close of the taxable period. If the tax is not paid on or before the due date, there shall be assessed a penalty of 10% of the amount of the tax unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of 9% per annum from the due date until paid."

NEW SECTION. Section 5. Banks and savings and loan associations -- special provisions for filing returns and payment of taxes. (1) County treasurers shall collect corporation license taxes paid by banks and savings and loan associations.

(2) Within 10 days after receiving a corporation license tax return from a bank or savings and loan association, the department of revenue shall transmit to the county treasurer of the county in which the business is located a statement showing its tax liability. To insure the

confidentiality of the return, as required under 15-31-507, the statement sent to the treasurer shall show only the name and address of the bank or savings and loan association and its tax liability.

(3) Within 5 days after receiving a corporation license tax statement, a county treasurer shall send to the business a demand for payment in the amount shown on the statement.

(4) The bank or savings and loan association shall make payment to the county treasurer within 5 days after receiving a demand for payment.

(5) If the department of revenue determines, under the provisions of 15-31-503 and 15-31-531, that a bank or savings and loan association owes more taxes than shown on the original return or has paid more than the tax, penalty, or interest due in any year, it shall notify the bank or savings and loan association and the county treasurer of the county in which the business is located. Additional payment is due within 10 days after receipt of the final determination of taxes due. County treasurers shall issue warrants for overpayment and interest, as provided in 15-31-531.

(6) The department shall continue to exercise all its duties and powers outlined in this title with respect to auditing returns and enforcing payment of the corporation

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license taxes owed by banks and savings and loan associations. Any delinquent taxes collected from the sale of property of a bank or savings and loan association under the provisions of 15-31-525 shall be transmitted to the county in which the corporation owing the delinquent taxes is located. The only duties of the county treasurers in this regard are collecting the taxes, issuing refunds, and distributing the taxes to local taxing jurisdictions.

NEW SECTION. Section 6. Distribution of corporation license taxes collected by county treasurers. (1) All corporation license taxes collected by county treasurers shall be distributed to the various taxing jurisdictions within the county in which the bank or savings and loan association is located.

(2) The corporation license taxes collected shall be allocated to each taxing jurisdiction in the proportion that its mill levy for that fiscal year bears to the total mill levy of the taxing authorities of the district in which the bank or savings and loan association is located.

(3) "Taxing jurisdictions" means, for the purposes of this section, all taxing authorities within a county permitted under state law to levy mills against the taxable value of property in the taxing district in which the bank or savings and loan association is located.

(4) If a return filed by a bank or savings and loan

association involves branches or offices in multiple taxing jurisdictions the department of revenue shall provide a method by rule for equitable distribution.

NEW SECTION. Section 7. Moneyed capital and shares of banks exempt. (1) Moneyed capital and shares of banks are exempt from taxation.

(2) "Moneyed capital" means money, bonds, notes, and other evidence of indebtedness, including evidence of indebtedness secured by a mortgage on real or personal property, in the hands of individual citizens and corporations coming into competition with the business of national banks or employed in conducting a banking or investment business.

Section 8. Section 7-6-206, MCA, is amended to read:

"7-6-206. Time deposits. (1) Such public money not necessary for immediate use by such county, city, or town which is not invested in direct obligations of the United States government as authorized in 7-6-202 may be placed in time or savings deposits with any bank~~, building and loan association~~ or savings and loan association in the county, city, or town.

(2) When more than one bank~~, building and loan association~~ or savings and loan association is available in any county for the deposit of such county funds or in any city or town for the deposit of such city or town funds,

such funds may be distributed ratably among all of such banks~~,--building-and-loan-associations,~~ and savings and loan associations qualifying therefor and substantially in proportion to the total property taxes paid during the preceding year in such county or the county in which such city or town is located~~,-including-taxes-on-shares-of-bank-stock,~~ and the corporation license taxes paid by each ~~such bank,--building--and--loan--association,~~ or savings and loan association willing to receive such time or savings deposits under the terms of this part.

(3) In lieu of a ratable distribution among banks~~,--building---and--loan--associations,~~ and savings and loan associations within the county, city, or town, the local governing body may solicit bids without advertising from any ~~bank,--building--and--loan--association,~~ or savings and loan association in a county having at least two such financial institutions. Such institutions may request in writing that they be listed for solicitation on bids for public money not necessary for immediate use by the unit of local government. In counties having less than two such institutions, the local governing body may solicit bids from and deposit public money in such institutions in neighboring counties unless the local financial institution agrees to pay the same rate of interest bid by the neighboring financial institutions. The governing body may solicit bids by notice

sent by mail to the investment institutions whose names are listed as provided herein. The provisions of this subsection shall be considered as meeting the requirements of subsection (2)."

Section 9. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of moneys from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all moneys received by him from the collection of:

(a) automobile driver's license fees under subsections (1) through (6) of 61-5-111;

(b) electric energy producer's license taxes under chapter 51;

(c) metalliferous mines license taxes under chapter 37;

(d) oil producer's license taxes under chapter 36;

(e) liquor license taxes under Title 16;

(f) telephone license taxes under chapter 53; and

(g) inheritance and estate taxes under Title 72, chapter 16.

(2) Seventy-five percent of all moneys received from the collection of income taxes under chapter 30 and corporation license and income taxes under chapter 31, except as provided in [section 6], shall be deposited in the general fund subject to the prior pledge and appropriation

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of such income tax and corporation license tax collections for the payment of long-range building program bonds. The remaining 25% of the proceeds of the corporation license tax, excluding that collected under [section 6], corporation income tax, and income tax shall be deposited to the credit of the earmarked revenue fund for state equalization aid to the public schools of Montana.

(3) The state treasurer shall also deposit to the credit of the state general fund all moneys received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code."

Section 10. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- costs of audit paid by county -- penalty for underreporting. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells, ~~bank shares,~~ business inventories, and all other types of property subject to ad valorem taxation. The costs incurred by the department, including per diem and mileage expense as well as salaries and benefits, shall be reimbursed from the amount collected as a result of the audit. In the event the property subject to audit is assessed within two or more counties, the department shall

allocate the cost among the collections due each of the counties. Reimbursement shall be made solely for audit expense and not for other services provided to the counties by the department and may not exceed the amounts collected.

(2) The taxable value of any underreported portion of any business inventory found as a result of an audit to have been underreported by the owner shall be increased by 25% as a penalty for underreporting.

(3) The 25% penalty may be waived by the department if reasonable cause for failure to report the total value of a business inventory is provided to the department.

(4) The cost of the audit shall be paid to the state treasurer for credit to the general fund."

Section 11. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the

value of property in class one and classes seven through eighteen. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in class one and classes seven through eighteen is the percentage of market value established for each class of property in 15-6-102 and 15-6-108 through 15-6-119.

(5) The assessed value of properties in 15-6-103, 15-6-104, 15-6-105, through 15-6-107, and 15-6-120 is as follows:

~~(a) Property in 15-6-106, under class five, is assessed at 100% of book value by the method established in 15-6-106 and the sections cited therein.~~

~~(b)~~(a) Properties in 15-6-103, under class two, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

~~(c)~~(b) Properties in 15-6-104, 15-6-105, and 15-6-120, under classes three, four, and nineteen are assessed at 100% of the annual gross proceeds.

~~(d)~~(c) Properties in 15-6-107, under class six, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(6) Land and the improvements thereon are separately

assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(7) The taxable value of all property in classes two through four and class six is the percentage of assessed value established in 15-6-103, 15-6-104, 15-6-105, through and 15-6-107, and 15-6-120 for each class of property."

Section 12. Section 15-24-701, MCA, is amended to read:

"15-24-701. Production credit associations -- assessment and payment. (1) Every production credit association organized under the provisions of section 1131d of Title 12, United States Codes Annotated, shall be assessed for and pay taxes upon all real and personal property owned by such association ~~and also upon the moneyed capital employed in such business, such moneyed capital to be ascertained by deducting from the amount of loans, including loans secured by mortgage on real estate or personal property, the amount of such loans discounted and any indebtedness representing money borrowed for use as moneyed capital. Said moneyed capital shall be taxed at the same rate and take the same classification as shares of stock in a national bank or moneyed capital coming into~~

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~~substantial competition therewith.~~

(2) The secretary or managing agent of every such association shall furnish to the assessor of the county in which the principal office of such association is located, within 5 days after demand therefor, a statement in such detail as the department of revenue or its agent may require, verified by his oath, of the resources and liabilities of such association as disclosed by its books at the close of business on December 31 of the preceding year. If such secretary or managing agent shall fail to make the statement hereby required, the department or its agent shall forthwith obtain such information from any other available source, and for this purpose it shall have access to the books of such association. The department or its agent shall thereupon make an assessment of the real estate and personal property owned by such association ~~and of the moneyed capital employed in the business of such association~~, which assessment shall be as fair and equitable as it may be able to make from the best information available, or said assessor may for the purpose of said assessment adopt the figures disclosed by any prior report made by such association to any state or federal officer pursuant to any state or federal law. Any person required by this section to make the statement hereinabove provided who shall fail to furnish the same shall be guilty of a misdemeanor and shall

be punished accordingly."

Section 13. Section 15-24-801, MCA, is amended to read:

"15-24-801. ~~Building~~ Savings and loan associations -- taxation. ~~(1)~~ Every ~~building and loan or~~ savings and loan association subject to regulation under Title 32, chapter 2, shall be assessed for and pay taxes upon all real and personal property owned by the association ~~and also upon the moneyed capital employed in the business. The moneyed capital shall be ascertained by deducting from the amount of bonds, notes, and other evidences of indebtedness of the association, including evidences of indebtedness secured by mortgage on real estate or personal property, the amount standing to the credit of the members of an association upon its books and any indebtedness representing money borrowed for use as moneyed capital. The moneyed capital so ascertained shall be taxed at the same rate and take the same classification as shares of stock in a national bank or moneyed capital coming into substantial competition therewith.~~ The secretary of an association shall furnish to the department of revenue or its agent in the county in which the principal office of the association is located, within 5 days after demand, a condensed statement verified by his oath of the resources and liabilities of the association as disclosed by its books at noon on January 1

in each year. If the secretary fails to make the statement hereby required, the department or its agent shall immediately obtain the information from any other available source, and for this purpose it shall have access to the books of the association. The department or its agent shall thereupon make an assessment of the real estate and personal property owned by the association ~~and of the moneyed capital employed in the business of the association~~, which assessment shall be as fair and equitable as it may be able to make from the best information available, or the assessor may, for the purpose of the assessment, adopt the figures disclosed by any prior report made by the association to any state or federal officer under a state or federal law. A person required by this section to make the statement provided for in this section who fails to furnish it is guilty of a misdemeanor.

~~(2) The amount standing upon its books to the credit of each member of an association shall be considered and held as the individual credit of each member. Each member shall list the shares held by him for taxation at their real value in money, in the county of his residence, the same as other credits are listed, except shares from which loans have been made or money advanced by the association, and as to such shares they shall be listed for taxation at the net cash value of the stock, to be ascertained by deducting the~~

~~loan from the cash value of the shares. Associations organized under or controlled by Title 32, chapter 2, are subject to taxation in no other way.~~"

Section 14. Section 17-5-408, MCA, is amended to read:

"17-5-408. Percentage of income, corporation license, and cigarette tax pledged. (1) The state pledges and appropriates and directs to be credited as received to the sinking fund account 11% of all money, except as provided in [section 6 of this act], received from the collection of the income tax and the corporation license tax referred to in 15-1-501 and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4), provided that no more than 11% of such tax collections shall be deemed to be pledged for the purpose of 17-5-403(2). The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.

(2) The state pledges and appropriates and directs to be credited to the sinking fund account 15% of all money received from the collection of the 9-cent excise tax on cigarettes which is levied, imposed, and assessed by 16-11-111(1). The state also pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of each of

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the excise taxes on cigarettes which are levied, imposed, and assessed by subsection (2) and (3) of 16-11-111, as amended, after the payment and redemption in full of the outstanding bonds for which said taxes have heretofore been pledged and appropriated or after the necessary funds have been set aside for such payment and redemption as provided in this part. The state also pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed, and assessed by law for that purpose, including the tax levied, imposed, and assessed by 16-11-202. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subsection (2)."

Section 15. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means those moneys deposited in the earmarked revenue fund as required in this section plus any

LC 0080/01

legislative appropriation of moneys from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The following shall be paid into the earmarked revenue fund for state equalization aid to public schools of the state:

(a) 25% of all moneys received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all moneys, except as provided in [section 6 of this act], received from the collection of corporation license taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 10% of the moneys received from the collection of the severance tax on coal under chapter 35 of Title 15;

(d) 62 1/2% of the moneys received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income moneys described in 20-9-341 and 20-9-342;

(f) income from the local impact and education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333 shall be paid

into the same earmarked revenue fund."

Section 16. Section 32-1-413, MCA, is amended to read:

"32-1-413. Borrowing money for capital purposes -- status of capital. Notwithstanding any other provision of law, any commercial bank, savings bank, trust company, or investment company, now in existence or which may be hereafter formed, shall have the power to borrow money for capital purposes upon such terms and conditions as may be approved by the department and for this purpose may issue capital notes or debentures therefor, such notes or debentures to be subordinate in right of payment to the payment in full of all deposits of such bank, savings bank, trust company, or investment company. The amount of money so borrowed shall be considered as capital for the purpose of determining the maximum amount of money that may be loaned by such bank, savings bank, trust company, or investment company to any person, partnership, or corporation and for the purpose of determining the maximum amount of money which such bank may borrow and for all other purposes of bank capital as may be required by law~~, except that the money so borrowed shall not in any event be considered in ascertaining the value and assessment of shares of any bank for the purpose of taxation~~."

Section 17. Repealer. Sections 15-6-106, 15-24-501 through 15-24-508, and 15-24-603, MCA, are repealed.

Section 18. Effective date. This act is effective for taxable years beginning on or after December 31, 1978.

-End-

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STATE OF MONTANA

REQUEST NO. 56-79

FISCAL NOTE

Form BD-15

ompliance with a written request received January 19, 19 79, there is hereby submitted a Fiscal Note House Bill 150 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.
kground information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members the Legislature upon request.

CRIPTION

act changing the method of taxing banks and savings and loan associations for local ernments; removing the Corporation License Tax exemption for interest from state and al obligations; repealing the tax on moneyed capital and shares of banks; providing a different method of collecting and distributing Corporation License Taxes paid by ks and savings and loan associations; and providing an effective date.

UMPTIONS

The present method of valuing bank shares is effective through 1978; however, for purposes of comparison, it is assumed to continue throughout the biennium.
The historic growth in tax revenues from bank shares will continue throughout the biennium.
The historic growth in saving and loan association and bank income will continue throughout the biennium.
All Corporation License Tax collected from saving and loan associations and banks will go to local governments.
The state levy is 6 mills for the university system.

SCAL IMPACT

	FY80	FY81
poration License Tax Collections		
under current law	$35.00 M	$35.00 M
under proposed law	33.15 M	33.00 M
Estimated Decrease	($ 1.85 M)	($ 2.00 M)
Mill University Levy		
under current law	$ .14 M	$ .16 M
under proposed law	0	0
Estimated Decrease	($ .14 M)	($ .16 M)
al Revenue		
under current law	$35.14 M	$35.16 M
under proposed law	33.15 M	33.00 M
Estimated Decrease	($ 1.99 M)	($ 2.16 M)

(CONTINUED ON PAGE 2)

Richard L Dunn for

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1/25/79

STATE OF MONTANA

REQUEST NO. 56-79

FISCAL NOTE

Form BD-

In compliance with a written request received January 19, 19 79, there is hereby submitted a Fiscal No
for House Bill 150 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to membe
of the Legislature upon request.

FUND INFORMATION

	FY 80	FY 81
General Fund		
under current law	$22.400 M	$22.400 M
under proposed law	21.216 M	21.120 M
Estimated Decrease	($ 1.184 M)	(1.280 M)
Earmarked Revenue Fund (School Foundation Program)		
under current law	$ 8.750 M	$ 8.750 M
under proposed law	8.288 M	8.250 M
Estimated Decrease	($ .463 M)	($ .500 M)
Sinking Fund		
under current law	$ 3.850 M	$ 3.850 M
under proposed law	3.646 M	3.630 M
Estimated Decrease	($ .203 M)	($ .220 M)
6 Mill University Levy		
under current law	$ .140 M	$ .160 M
under proposed law	00	00
Estimated Decrease	($ .140 M	($ .160 M)

It is noted that revenues to the Public School Equalization Earmarked Revenue Account are used to support the Public School Foundation Program; therefore, any decrease in revenues to that accounting entity either (1) results in a decrease in the Foundation Program schedules, (2) requires additional support from other contributors to the Foundation Program (oil and gas royalties, corporation license tax, individual income tax, State General Fund appropriation, etc.), or (3) requires a state deficiency levy.

Also, for all practicable purposes, revenue decreases to the Long-Range Building Sinking Account are decreases to the General Fund since collections in excess of debt service requirements are transferred to the General Fund.

BUDGET DIRECTOR
Office of Budget and Program Planning
Date:

STATE OF MONTANA

REQUEST NO. 56-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 79, there is hereby submitted a Fiscal Note for House Bill 150 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

EFFECT ON LOCAL GOVERNMENTS

Local governments would lose $100,000 in FY80 and $400,000 in FY81 if this proposal were to be enacted. Even though the total revenues to local governments are almost the same, the money will not necessarily go to the same taxing jurisdictions as under the bank shares tax. In addition there will be no first half payment for property tax on bank shares in November 1979. The new tax will all be due in May.

LONG-RANGE EFFECTS

The state will lose over $2 M in Corporation License Tax from saving and loan associations and banks each year this bill is in effect.

TECHNICAL NOTE

Corporations may be granted one to six month extensions, which could delay some payments to local governments into the next fiscal year.

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: _____

TAXATION COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 150	Changing methods of taxation on banks & S&L Assoc. for local govts. Removing corporation license tax exemption for interest from state & local obligations; repealing ~~tax on moneyed capital & shares, etc.~~	1/13	Fabrega, et al	1/18	Subcommittee As Amend, Do Pass 1/25 Reconsider 1/26 Subcommittee 1/30 AS AMENDED DO PASS	3/12
HB 151	Repealing individual income tax surtax; amend 15-30-105, 162; & repealing 15-30-104, MCA	1/13	Yardley	3/16	TABLED - 3/26	
HB 154	Allowing an employee to accept the employer contribution specified in 2-18-703, MCA, toward an approved insurance policy as additional income or to reject amount specified ~~in 2-18-703; amend 2-18-305.~~	1/13	Hand	1/17	DO NOT PASS	1/19
HB 158	Exempting employers from making unemployment contributions for student employees; amend 39-51-1103, MCA	1/13	South	Transferred	to Labor Committee	1/15
HB 161	Allowing personal income tax deduction for 20% of rent paid on residential dwellings as portion of rent constituting property tax payments; amend 15-30-121; providing eff. date	1/13	Fabrega	1/17	DO PASS	3/27
HB 181	To generally revise and clarify laws relating to taxation: repealing 84-510, 84-6210, RCM; and 15-23-509, 15-24-401, 15-51-105, MCA	1/16	Marks	1/19	DO PASS AS AMENDED - 2/13	2/13

HOUSE TAXATION COMMITTEE

46th Legislature

The committee was called to order by Chairman Herb Huennekens, District #88, Billings, at 9:15 a.m., January 18, 1979, in Room 434, Capitol Building, Helena, Montana. Staff attorney Randy McDonald was present. There was a quorum present.

Bills to be heard were HB 150 and 141.

HOUSE BILL 150

Rep. Fabrega, sponsor of House Bill 150, advised that the banks thought the state had no right to tax that portion of the capital investment of the banks that was invested in federal securities, which leaves almost no value to tax. Really banks are corporations doing business in Montana and they should be treated as all other corporations. One of the problems that existed again was that if the state does not tax its own securities, it could not tax the securities of the U.S. Banks hold tax-free paper. HB 150 would change that tax-free status and make income from such securities taxable for all corporation holders.

It allows the State of Montana to tax all of the income of banks whether from state obligations or from the corporate license tax. Banks will now be taxed on their net income with some exclusion allowed for bad debts at the rate of 6 3/4% which all other corporations pay. The next problem was that the bank share tax went to local governments as part of the value base and we are removing a sizeable chunk of money from local governments. Unlike other corporations, the corporate license tax is collected by county treasurers. The distribution is made based on that proportion of the millage that belongs to each district. The amount of revenue that is derived is to be divided in an exact formula in relationship to the school district, city, and county. The method of distribution of income collected would not be changed.

This bill would - 1. Do away with the tax-free status of municipal and state obligations. Banks are agreeable and since they are the major holders of municipal and state obligations, it would be acceptable to them.

John Cadby, Manager of Montana Bankers Association, said 160 banks support this idea and have agreed to support this measure. The objection has been in trying to reach tax equity, and their conclusion was that net income was probably the fairest means of taxing banks and since they are a profit-making organization, it would be fair. HB 150 achieves that end and taxes them as is any other corporation. The bank share tax was very discriminatory.

Harold Pitts, Montana Bankers Association, and George Anderson, certified public accountant, representing Montana Bankers Association, suggested we should try to find out what the effect would have been if the banks had been under the corporation license tax. None of the banks would pay any bank share tax under the old law. We will not challenge the bank share tax law. We are operating under the 1977 law. $5.5 million was paid in bank shares tax during the last two years. What would have been collected under the 1979 bill from

160 banks net income if all banks in Montana had paid the corporation license tax had this bill been in effect in 1978? $5.6 million would have been paid, and this amount would have gone to local governments. All Savings and Loans taxes would have added another $5 million. The municipalities and local governments will receive about the same amount of dollars under HB 150 as under the bank shares tax method.

Ross Cannon, representing the Savings and Loan Associations, recommended amending HB 150. He presented a detailed history of bank taxation, which he described as being bizarre. He agreed with the banks that taxation of moneyed capital is wrong here. He does not quarrel with the principle of revising the concept. However, the S&L Associations are the only class of financial institutions within the perimeters of this bill whose taxes significantly increase as the net result of HB 150, and the reason is that all financial institutions invest in government securities. There is very little tax on moneyed capital. Government obligations were not taxable. Courts held expressly that the taxation of government obligations are not taxable.

The banks suddenly looked at this and litigated since no financial institution is now legally liable for any form of property taxation on any government obligations. This bill proposes to remove the tax exemption from state and municipal obligations and thereby renders the obligations of the U.S. taxable for income tax purposes on income derived from such obligations; and for purposes of applying the corporation license tax. Banks are out from under the bank share tax and therefore their taxes are significantly reduced. Some larger banks received a tax reduction of thousands of dollars. S&L taxes will go up about 53%. There are 16 home offices for 16 S&Ls and 160 banks.

There is no tax on credit unions - federal law prohibits this. The only financial institutions to which this would adhere are the S&L Associations. That isn't quite tax equity. Taxes go up, bank share taxes go down. Compared with the 1976 income tax, this law reduced the net yield over $6 million, so the net yield to local governments is down about $2 million. $1 million comes from the state revenue sharing. This would have a significant revenue effect.

S&Ls are paying a very high price for money. He thinks the S&Ls should be allowed to have a reserve for bad debts to permit these financial institutions to shelter a portion of their net income, ameliorating the impact of this bill in this manner. It would help the S&Ls by allowing them to have a counterpart in bad debt reserves.

Paul Johnson, President of S&L Association in Great Falls, said HB 150 makes incomes from government obligations taxable. They don't hold any municipal bonds. It would increase Subchapter S corporation license tax 94%, based on taxes paid in 1977. He feels this is too much of an increase. If the amendment is adopted, it would increase net tax about 20% instead of 94.4% which is nearly doubling taxes and is too great an increase.

Steve
In 1976, the effective tax rate for commercial banks was 15% whereas the effective rate for S&L was 26%. He agrees with the amendment offered, and supports Cannon's testimony.

Einor Long, Savings & Loan in Havre, concurs with Ross.

Ernest
witnesses, and with Ross. He feels it is an excessive increase in taxation.

Fred Flanders, Montana Independent Bankers, Helena, confirms Mr. Cadby's testimony and supports his testimony.

Dan Mizner, Executive Secretary of Montana League of Cities and Towns, recommends an amendment on pages 11 and 12, and on page 12, line 2, by inserting "if it is generated from that town, it should be returned to that town."

Dean Zinnecker, Director of Montana Association of Counties, doesn't know just what effect HB 150 will have. He wants to see a fiscal note. It is questionable as to what effect a bill supported by 160 banks will do to the counties. Bankers show about a $300,000 impact so am not sure just what effect it would have on counties. He questions the fact that the assessing is inequitable or not. Regarding the court case, it is hard to determine what the percentage of the capital of banks is in federal obligations. If counties lose the stable property tax, they will be forced to rely on an income tax which would cause a fluctuating mill levy. Budgeting to pay taxes would be very hard. It would cause some redispersion problems. If the tax base is lost, they are likely to go out of business. He wants to know what effect HB 150 would have on taxes collected.

There were no specific opponents.

In closing, Rep. Fabrega said one of the things that was not made clear, is the fact there was greater variation in the amount paid by banks even if similarly taxed. Where banks invested their funds varied and created a problem. Twin operations showed 30 times difference between the way the bank share and corporation license tax worked; S&Ls actually escaped taxation in Montana. It was not in the best interests of Montana. There is no reason to give an incentive to send Montana money on to Washington. There is a revenue drop because we allude to a mythical figure in the 1976 tax. It was paid under protest and the banks won the case and it will have to be refunded. A $6.6 million tax that was levied, but was not paid.

With regard to Cannon's amendment, Rep. Fabrega feels it should be considered. An increase is generated by the fact that S&Ls are not being treated in a similar way to the banks and they should be allowed that deduction for a bad debt reserve account. There is no such thing as branch banking in Montana. On S&L branches in other counties, the Department of Revenue would determine how much of their earnings came from a certain district and that amount of money should be returned to that district. The committee will attempt to come up with more exact language.

Regarding Mr. Zinneckers testimony - there is fluctuation of mill levies because local governments have always operated on the property tax base. Testimony pointed out that there has been a constant growth in bank income. Fluctuation concern should be minor since a slight growth would make for greater revenue to counties.

Questions:

Ross Cannon was asked for monetary figures providing data with regard to the amount of tax under 1978 tax laws that would parallel what Mr. Anderson had. Mr. Cannon said he has asked what the actual corporation tax would be including income from the S&L based on the same year, but the data is incomplete.

Rep. Huennekens asked Mr. Cannon for monetary figures. Cannon said the 16 S&Ls paid $472,764 in 1976. Under HB 150 based on 1976 figures, taxes would be somewhere in the area of $.5 million.

Rep. Fagg asked if it is possible to equate banks and S&Ls - is there a common denominator on which to figure earned income if neither use reserves. Mr. Anderson said there is a difference. They both have a reserve for bad dets. HB 150 does not allow the utilization of a bad debt reserve for figuring tax - many, many corporations use a reserve for bad debts but the corporation license tax does not allow that, and they have to take that reserve out, so banks deducted out what they had written off only. Under the corporation license tax only the amount actually written off as bad debts can be deducted. A reserve for bad debts account would be much higher than actual charge-offs.

Rep. Fagg feels the difference between writing off a bad debt reserve and banks using an actual bad debt write-off figure would make for equity. Banks would love to keep the bad debt reserve they now have.

Rep. Sivertsen asked Mr. Cannon to explain to the committee why he thought S&Ls should be treated differently. Mr. Cannon said they don't wish to be treated differently. He thinks the bill in its present form does that. S&L taxes go up and bank taxes go down. He thinks it is alright for banks to use a bad debt reserve of 1.2% of loan value. The net effect of this bill in its present version reduces $6 million tax to $1/2 million. Our S&L taxes go up and bank taxes go down. The reserve technique effects a reduction of $100,000 of net pre-tax income. Without share tax banks' tax liability goes down. S&L taxes go up because government obligations' incomes are not added to income for corporation license tax.

Mr. Cannon said federal law insulates credit unions, etc. All kinds of institutions are affected by this tax. Rep. Sivertsen asked if, by IRS rulings, it would be constitutional if we treated S&Ls differently. Mr. Cannon answered constitutionality is a function of the courts. S&Ls exist so that funds will be available for providing funds for housing.

Mr. George Bennett, attorney for Montana Bankers Association, proposed that since only the S&L taxes would be higher than other institutions, they be allowed to deduct a bad debt reserve.

The law is clear. Corporation license tax on similarly situated corporations cannot be different. The question is would you be treating them differently in allowing one to have a higher tax reserve than others?

The bank share tax or moneyed capital tax on financial institutions was a property tax. S&Ls and banks are similarly situated in that they pay taxes on buildings and furniture and fixtures. They were taxed on the net worth of

of the financial institutions. Bank worth was represented in large part by government obligations. The corporation license tax was a tax on all corporations. Specific organizations for religious and educational purposes were carved out. Bankers have felt that they, as a business corporation, were being discriminated against. There have been three redrafts of these regulations, four lawsuits over the bank share tax. Now it is illegal to attempt to reach government obligations. If you are going to treat the S&Ls differently, it would seem you are discriminating. Is their bad debt any different and should be treated differently? If you zero in on financial institutions which are competing with banking operations, they should be treated similarly. The S&Ls had been deducting for a bad debt reserve before the turn of the century while the banks were not. The S&Ls have enjoyed a favored tax status for many, many years. Hope that you are not going to eliminate that discrimination.

Rep. Lien asked if a reserve for bad debts is in excess of actual bad debts. The S&Ls computed it on a formula of 2.7% of outstanding loans no matter what their loss experience had been. They have been reducing their bad debt reserve, and have been adding part of it to their income since the loss experience has been slight. Now, corporations will be able to charge off only actual losses. In fact, banks are bringing back into income figures amounts they set up in reserve accounts 5-10 years ago. Rep. Lien feels that at some level the money should be pulled back into income.

Mr. Bennett advised the amount of loss was based on the amount of loans outstanding at the end of the year by banks.

Rep. Williams said the purpose of HB 150 was to create equity for financial institutions taxation. When interest income from government obligations is not taxed, there is no equity. Under HB 150 they would all be taxed the same and this would make for equity in taxation.

Mr. Cannon thinks the bank shares tax was inequitable. Essential immunity of state is based upon a federal prerogative which says U.S. institutions can't be taxed is where this principle of not taxing government obligations arose. Taxation of governments is not permitted. The effect of this tax is to shift their share of that onto S&Ls and other financial institutions.

Rep. Nordtvedt asked since taking this tax-free status of some of your bonds away, have you made any estimates of how your interest rates might go up on the bonds you sell? Mr. Mizner said the bonds would be very hard to sell.

Rep. Johnson asked Mr. Cannon if any S&Ls would have to be closed down? Would it raise the rates of interest? Mr. Paul Johnson said they have been accorded a bad debt reserve for their mutual institutions. Congress has given us this little vehicle because we are dedicated to providing homes for the people of the U.S. We can't charge 18% as is done on bank charge card accounts. Interest rates probably won't be reaised. Money rates are up now and so interest rates are up. We would have to pass the higher rates along to the users.

Rep. Fabrega asked if they see the reserve fund of a S&L being of a different nature because of the nature of your lending? Mr. Cannon read an excerpt from the tax act of 1969 which allowed S&Ls to use bad debt reserves because of the nature of their lending function since much of their lending was done for residential improvement.

Rep. Fabrega remarked besides it creates more funds for housing since they provide about 80% investment in housing. They might need to create a greater fund than that of a bank. It was brought out that this is the basic difference between banks and S&L associations. Because of their long-term lending, S&Ls cannot adjust to economic conditions as easily as banks with their bigger ratio of short-term loans. The S&Ls want a bad debt reserve since it provides more money for housing. Did S&Ls ever pay anything like the bank shares tax did? If so what was that and when did you quit paying that?

Mr. Cannon said an organization is taxed in accordance with the type of property it has.

Paul Johnson said S&Ls have paid the corporation license tax. Banks and S&Ls have all been treated equally under the corporation license tax. Federal law provides that a state may tax the income of federal corporations on an income or franchise tax. It was determined by the Department of Revenue since municipal bonds were exempted, it could not tax the interest from U.S. obligations and still have a non-discriminatory tax. The S&Ls discovered that they didn't have to pay equivalent tax as the bank share tax. Banks always allowed deduction of the value of government obligations.

Rep. Williams said S&Ls are non-profit corporations. All they would have to do would be lower their reserves.

Mr. Johnson said there is a small profit motive since they have to set aside a certain percentage of money - 5% of their loans must be maintained for the safety of their depositors.

A subcommittee was appointed to study HB 150. Rep. Lien, chairman, Reps. Sivertsen and Williams. Rep. Fabrega was to act as a resource person.

Rep. Nordtvedt, sponsor of House Bill 141, said this bill changes the license fee and various types of classes for public contractors who engage in bidding on public jobs.

HOUSE BILL	Opponents:
141	Rep. Fagg asked what qualifications of the various types of licenses were required.

Bob McGee, Department of Revenue, said the basic qualifications of any of the licensees is that they submit a financial statement. Anyone who can obtain the necessary bond can apply. Qualification is not related to experience.

Rep. Fabrega asked if you have to somewhat justify your level in business over a period of years. If you are not doing enough business to be able to use a class A license through experience, you would have to submit a resume. Then you would be dropped to the next lower class. Mr. McGee said his office has never suggested that - most of the contractors pick that out on their own. If you change your class of license, you must obtain a new license. Might as well stick to the class contractor is already in.

HOUSE TAXATION COMMITTEE

Subcommittee on House Bill 150

The subcommittee on House Bill 150 chaired by Representative Edward Lien met at 8:15 a.m., January 22, 1979, in Room 431, State Capitol Building. Other members present were Representatives Melvin Williams and Robert Sivertsen. Staff attorney Randy McDonald was also present.

Others attending the meeting were: George D. Anderson, Montana Bankers Association; Larry Huss, Montana Independent Bankers Association; Ed Sheehy, Jr., Montana Savings and Loan League; Harold Pitts, Montana Bankers Association; John T. Cadby, Manager of the Montana Bankers Association; and Dean Zinnecker, Montana Association of Counties.

Randy McDonald gave those present a sheet containing information that had been requested - which is exhibit 1.

The purpose of this meeting was to gather additional background information on HB 150 and the amendment proposed by the Savings and Loan Association.

After questions and discussion by the subcommittee members it was felt they were unable to get all the information in the time allotted that they would meet again on Tuesday morning, January 23, 1979, at 8:00 a.m.

The meeting adjourned at 9:00 a.m.

Edward Lien
Representative Edward Lien
Chairman

Yvonne Borgmann
Yvonne Borgmann, Secretary

HOUSE TAXATION SUBCOMMITTEE

46th Legislature

Representative Edward Lien, Chairman of the subcommittee on HB 150, called the committee to order at 8:15 a.m., January 23, 1979, in room 434, Capitol Building, Helena. Representatives Robert Sivertsen, Melvin Williams, Jay Fabrega were present. Harold Pitts, John Cadby, George D. Anderson, CPA, representing Montana Bankers Association; Ed Sheehy, Jr., Attorney, Montana Savings and Loan League; Randy McDonald, Staff Attorney, were present.

According to Department of Revenue, S&L ~~banks~~s paid $387,745 in taxes in 1977. If HB 150 had been effective, they would have paid $200,869 more. Seventeen building and loan companies (two from outside the state) were taxed for 1977.

Sivertsen: Getting back to the S&Ls - are you now saying that we should grant this bad debt reserve deduction for both banks and S&Ls?

Sheehy: Can be given to both - it's constitutional when applied to both institutions.

John Cadby asked if there were any danger at all of there being a legal risk by putting in the reserves for bad debts for banks or S&Ls. Sheehy: It would be unwise to do because it would jeopardize the whole bill.

Sivertsen: If we grant that reserve for bad debts, then in order to raise the amount of money that we think we need, or to try to raise the same amount from this tax, then what would be the rate - what would you say if we raised it to 7-1/2?

Sheehy was not sure raising to 7-1/2 would solve the problem. Their taxes will increase. Would have to see how much revenue you would lose by allowing both to have this deduction.

Mr. Anderson said Mr. Bennett didn't think it would jeopardize the whole bill. Addition of a severability clause would save balance of bill.

Sivertsen: If we leave the bill the way it presently is, and our real main focal point is trying to bring about equity, do you think that by not allowing the bad debt reserve to either would be equity?

Fabrega: Problem is going into corporate license tax - all other corporations are based on actual bad debts. Present law is actual losses can be deducted from profit and if we change that, we have troubles.

Lien agreed every corporation is allowed to deduct actual losses.

Fabrega: The Revenue Oversight Committee did not want a financial institutions bill. One of the things that was proposed at the hearings was that we allow a deduction of 11-1/2% for financial corporations which should be treated like all other corporations.

Sheehy answered that it is a question of how other corporations will react. The entire bill right now is changing procedure of corporation license tax and provides money goes into state general fund. There could be a challenge right there. Have doubts about other corporations coming in and saying this is discriminatory. As long as there is no discrimination within a class it would be alright. No legal problem if no discrimination. Can treat banks and S&Ls alike because they are similar.

Williams: Have to keep in mind not distinguishing between them. Practically all other business corporations paying some kind of an inventory tax.

Cadby: Federal law says you can only impose a uniform non-discriminatory tax on interest income of federal obligations. We are under the rule of that federal law. If you allow a bad debt reduction to banks, are you not discriminating against another corporation who is holding federal obligations and bringing a case against banks?

Williams said the amount of obligations that is owned by other corporations is only 2-3%. This could make for a problem. What is a financial institution? Other corporations don't need reserves as much as banks. It is a very touchy subject. Feeling among corporations that have losses, is that there is a need for reserves.

Fabrega: Question of distribution doesn't pose the same conditional problems in allowing the deduction. The only one person that might take it to court, is the general fund or the school foundation. We can earmark funds. Everything should go into the general fund in his opinion. Property tax would no longer have to go to local governments.

Sheehy: Other corporations could argue.

Pitts: Banks have paid counties for hundreds of years. How tax is figured wouldn't have any effect on where the money is paid. Sheehy advised S&Ls have been paying to counties.

Sivertsen: S&Ls think they should have preferential treatment because of the nature of their business and that is in long-term loans. Banks have short-term loans and turn their dollars over more quickly. S&Ls enable people to have homes through long-term loans.

Cadby: The nature of S&Ls is evaporating - in a few years, won't be able to tell the difference since S&Ls are making loans like banks. Banks sell their loans and don't hold them. They are in the business of servicing accounts. S&Ls make very few consumer loans. Banks make more consumer loans. S&Ls are trying to get checking services. In 5 years won't be able to tell the difference between banks and S&Ls.

Sheehy: S&Ls aren't allowed to have checking accounts in Montana. Some states have started that, but S&Ls don't have master charge, etc. Basically they should be treated the same.

Sivertsen: Reasons why they should be treated differently?

Sheehy said S&L position is not that they should be treated differently. Under this bill they are going to be, in effect, treated differently - not maybe in the way the bill reads, but the "effect" treats differently. Thinks the reserve method is the only way and should be put in for all corporations and justified by basing on the risk that that particular industry has as far as loans, etc, is concerned. Reserve should be set up for all corporations. Reserve based on what the risk of the loan is - not how much you can loan- what the history of that particular industry is in accordance with their losses.

Williams asked what the volume of loans is compared to the tax paid - ratio of loans to tax. Banks can get this figure easily. He thinks that although $200,000 additional tax will pull a sizeable amount of money off the money market, it will not make much difference in the operation of the S&Ls. The ratio figures are to be given to the committee.

Pitts: Reserve for banks whose loans are 1/3 commercial loans, 1/3 installment loans; 1/3 unsecured loans. Banks have a greater exposure to real losses. Reserve is probably more a necessity in that type of lending. Real estate loans provide good security.

Sheehy: S&Ls increased their business by 15% last year. They have approximately $31,342,000 in loans, with total assets of $122,770,000, and feel $200,000 would have quite an impact on them.

Lien: Real estate security is one of the safer loans. Installment and unsecured lending is more risky.

Cadby: Real estate inflates in value, making for more security. S&Ls have $3.5 billion in real estate loans, $4 billion total. 65% is loaned out; 2-1/2 to 3 billion loaned out annually. What is $200,000 against that? That is loans on homes.

Sivertsen: Problem is answering the question as to why we should treat banks and S&Ls differently. Appears to him that the S&Ls are fighting this thing because they will be paying more taxes. Equity in taxes and this appears to be another step going down that path. Can you give me any other good reasons why you should not be taxed under this bill?

Sheehy: The intent of this legislation seems to carry out that and to replace the property tax loss that is going to happen. The two should be treated equally. With this amendment taxes will still go up and the majority of the banks with this proposal will have a reduction in their taxes.

Sivertsen: This is an equity issue. Maybe banks have been paying too much and S&Ls not enough. If this is not the case, I want reasons why.

Sheehy: Maybe banks have been paying a tax that the state should not have been taxing them for.

Lien: We are addressing equity and try to evaluate that. Doesn't think this is a valid excuse for not taxing S&Ls.

Sheehy: In talking about 160 banks and 17 S&Ls and the impact on those 17 S&Ls will be greater than on the 160 banks. Every one of the S&Ls taxes are going up. Thinks it could be done in a more equitable manner.

Fabrega: Without HB 150 the banks will pay less taxes than they have ever paid. Share taxes was repealed - banks would pay $900,000 in corporation license tax, so bank taxes are increasing. S&Ls will pay $200,000; banks will pay about $3 million more. If we don't do anything, the banks will enjoy the lowest tax ever. Suppose a taxing method based on deposits and loans were imposed. Banking is a business like any other business and should be treated all alike. If you allow a reserve method, allow it throughout the corporation license tax.

Sheehy: Banks will be paying $3-1/2 million for eliminated bank shares tax, plus what they are paying now. Banks agree with the tax. S&Ls are being faced with making up some of the loss.

Fabrega: Removal of bank shares tax was not Legislature's decision.

Sheehy: Would have to look at that decision again. Should not strictly outlaw the bank shares tax. Any state taxation that requires U.S. obligations to be considered directly or indirectly in computing that tax is unconstitutional.

Sivertsen: Just getting back to the main focal point in this whole thing - we are forced to take a look at this issue. Have had a lot of testimony from banks and S&Ls - nobody has been able to tell me that this bill is unfair with any real legitimate reasons. Feeling maybe the S&Ls have not paid their fair share and maybe the banks have paid too much.

Pitts: The amendment offered by the League of Cities if acceptable to the committee, is fine with the banks. No objection by the S&Ls.

Sheehy: It is within the power of the Legislature to treat corporations differently. Thinks it necessary to have the bad debt deductions. Because of the particular nature of the type of corporations we are dealing with, this deduction although denying it to other corporations, is justifiable and he doesn't think it would face any challenge in the courts. In making this equitable, have to look at where the tax is going to hit. Impact is going to hit S&Ls harder than the banks and that is the reason we are asking for this amendment. Impact will be greater on S&Ls than on the banks. A 53% increase is going to shackle S&Ls.

George Anderson, Accountant, said he doesn't like to see anyone treated differently. Much more dangerous than treating them all the same.

Meeting adjourned at 9:00 a.m. This was to be last subcommittee meeting.

Edward Lien

REPRESENTATIVE EDWARD LIEN, Chairman

Josephine Foltz

Secretary

HOUSE TAXATION SUBCOMMITTEE

46th Legislature

Representative Edward Lien called the subcommittee to order on February 5, 1979, in Room 431, Capitol Building at 8:05 a.m. Representatives Sivertsen and Williams were present. Other persons were present - see accompanying witness sheet.

Representative Williams proposed input to look at income that can be expected from the banks to be comparable to what they were paying under the 1977 law and currently in 1978. Should be a basic figure. This is roughly $6.1 million. Leaving out savings and loans, rate would be 10.6% from the banks. Savings & loans - give them the exemption they are asking for - give banks and S&Ls bad debt exemptions spelled out under separate sections of the law. Tax both banks and S&Ls on corporate license tax to keep money to what they did pay in 1978 - 9%. 8.3% - 9%. This will give the state for the general fund what they have been getting. Might figure out 6-3/4% and 2-1/4% to counties. Question of having a committee bill for taxing financial institutions.

Banks didn't pay tax in 1976, but Williams feels they should be obligated to pay what they agreed to pay in 1977 and 1978.

Representative Sivertsen suggesting if left at present circumstances - phase S&Ls in on 20% per year over the next five years, since they loan for homes this would be in the best interests of the economy of our country. Banks do not pay an inventory tax - money is their inventory. Other states have two separate rates for financial institutions and other corporations. Otherwise, eliminate inventory and put everybody on a 9% rate.

Representative Lien raised the question of overtaxing banks. Suggested run this bill through clean with the reserve for bad debts included in the separate federal statute for S&Ls and banks. Federal taxes are being reduced for banks to 6-3/4% and allow for a $3.6 million loss to the state. Federal is gradually being phased out and all they deduct is for bad debts. Let S&Ls continue under federal statutes. Piggyback federal statutes or run it clean without any amendments. Expect it to be unpopular.

Representative Sivertsen mentioned this makes for a 53% increase in S&Ls tax.

Ross Cannon suggested offering proposed figures to bring it back from 9% to 6-3/4% over a period of time.

Representative Sivertsen said if based on growth, can't mandate any future legislature. However, could put it into law and the next legislature could change it if necessary.

Rep. Lien prefers to come in with a rate that would do the job and let succeeding legislature evaluate it. Rep. Williams said this would take a 9% rate on the proposal.

Representative Sivertsen moved that follow through on granting banks and

S&Ls the deductions for bad debt reserves and raise rate to 9% with a recommendation that if assets of banks and S&Ls grow, that 9% would be reduced down to 6-3/4% so that all corporations would be taxed at the same rate. Based on growth of financial institutions, could have a schedule by which it could be lowered that we recommend. A 9% rate and 85-15 split would leave it at about the same income as at present.

Rep. Lien thinks it is equity to work back to 6-3/4%.

Rep. Williams advised there is a possibility that since some other corporations other than financial hold federal and municipal obligation gonds, these cannot be taxed at different percentages. If that is true, would it be feasible to amend the present corporation license tax law so all corporations would pay the same rate - 2% is held by other corporations.

Ross Cannon asked if different treatment between corporations is legal - subsequent tax on financial institutions really doesn't affect this. You can tax federal government obligations as long as it is not a discriminatory practice. Maybe could not be legal.

Rep. Lien asked if the 9% will fly through bond houses?

Rep. Sivertsen asked should banks be given a reduction in taxes since we feel that they should participate fully in paying their full share - banks have never said they were overtaxed - they have indicated they were willing to pay their fair share. Recommends working to justify 9%. Questioned having another hearing.

Paul Johnson, Great Falls S&L Association, figured this would increase their tax for 1978 which is $50,365 - increasing the tax and allowing for a bad debt reserve would increase to about $71,000 for 1979. Average increase for all S&Ls would be 53%. They would go along with this. Their problem has been that the banks got a big decrease and S&Ls got a big increase.

Cannon asked if it would be feasible to set revenue goals? Paying which would have yielded 6.9% in 1976. If a goal could be maintained at say 5.6% and set rates that produce 5.6% minimum and see if could arrive at a step-down rate set into the bill. If S&Ls could see that it would be stepped down over a period of years, would be better satisfied. Wants rate written into the law.

Representative Sivertsen is to write an amendment to provide for a 9% rate with an 85-15 split with a step-down proposal based on growth.

Meeting adjourned at 8:35 a.m.

Herb Hansen

REPRESENTATIVE EDWARD LIEN, Chairman

Josephine Lahti

Secretary

46th Legislature
Members of House Taxation Committee continued:

Representative Robert Sivertsen
Box 2226, Havre, Montana 59501

Representative Melvin Underdal
Box 605, Shelby, Montana 59474

Representative Orren C. Vinger
517 Johnson, Wolf Point, Montana 59201

Representative J. Melvin Williams
511 8th Avenue, P.O. Box 245, Laurel, Montana 59044

Randy McDonald, Staff Attorney
Helena, Montana 59601

Josephine Lahti, Secretary
Wolf Creek, Montana 59648

The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

46TH LEGISLATURE

Members of the House Taxation Committee:

Representative Herb Huennekens, Chairman
3216 Rimrock Road, Billings, Montana 59102

Representative E. N. Dassinger, Vice-Chairman
Box 206, Forsyth, Montana 59327

Representative Verner L. Bertelsen
Rural Route, Ovando, Montana 59854

Representative James H. Burnett
Luther, Montana 59051

Representative Robert Dozier
3923 3rd Avenue S., Billings, Montana 59101

Representative Jay Fabrega
812 Grizzly Drive, Great Falls, Montana 59404

Representative Harrison G. Fagg
1414 Mystic Drive, Billings, Montana 59102

Representative Peter J. Gilligan, Jr.
P.O. Box 6413, Great Falls, Montana 59406

Representative Dan W. Harrington
1201 N. Excelsior, Butte, Montana 59701

Representative Les J. Hirsch
Broadus Stage, Miles City, Montana 59301

Representative Vicki Johnson
Star Route, Whitebird, Columbus, Montana 59019

Representative Edward Lien
SR 231, Box A33, Wolf Point, Montana 59201

Representative Kenneth L. Nordtvedt, Jr.
118 Sourdough Ridge, Bozeman, Montana 59715

Representative Arlyne Reichert
1409 4th Avenue S., Great Falls, Montana 59405

Representative Hershel M. Robbins
915 1st Street East, Roundup, Montana 59072

Rep. Fabrega explained most loans are reinsured. Congress did allow S&Ls in order to build up capitalization in an industry that it was thought very desirable to have bad debt reserve funds built up. The S&L brought suit and the court denied. Rep. Lien explained it was appealed to the state Supreme Court and they reviewed to allow the deduction. Mr. Sheehy, representing the S&Ls, said that was in the late 60s or 70. The suit was on whether or not they were entitled to a bad debt reserve in corporation license code. The court said no. Rep. Williams said that is the reason the S&Ls taxes are being increased about 53%. They removed the exemption from interest income. It is a big increase for the S&Ls.

Rep. Fagg moved HB 740 DO PASS. Rep. Lien opposed to HB 740. Main purpose is to soften the 53% increase - if both were taxed at the same basis before, their increase under this bill would be in excess of 100%, so you want to get the figure that you are basing the previous tax on. The banks' increase would have been dramatic - they have been paying more than they had to.

Rep. Huennekens explained a percentage figure has only meaning with regard to the base - a 50% increase in the base is 50¢. 50% doesn't have any meaning - the question is the increase on how much? Rep. Williams explained the S&Ls are mutual companies and banks are stockholders. Taxing for mutual corporations is different.

Rep. Fabrega said in 1971 Senator Himsl exempted from taxation the municipals. Prior to that no one could say when they could no longer tax on federal income. The decision made in 1971 created quite a windfall for S&Ls. Feels with regard to HB 740 in the sense of equity, we need to review back to 1971. He is opposed to the bill at this time.

On Rep. Fagg's motion to DO PASS, Reps. Fagg, Williams, Vinger voted Yes. Reps. Underdal, Gilligan, Harrington were absent. Motion did not succeed. Bill will leave committee on a HB 740 DO NOT PASS recommendation.

Rep. Fabrega further commented the level of taxes that the banks will pay is about the same is they would hve before 1976. Rep. Sivertsen thinks the loss is not valid projected on what the banks had been paying under a legal tax. Really it's not true that banks will be paying less. Rep. Huennekens said will get much more through a corporation license tax. Rep. Sivertsen explained if had not reached an agreement, they wouldn't have paid any tax - the banks agreed they would pay this amount. Rep. Lien said we are dealing with projections. Had the banks' figures in - that was closest to anything found. It wasn't challenged. Rep. Nordtvedt feels there is something wrong with the whole process.

Rep. Fabrega explained an agreement between the banks and the taxation committee last session was reached in order to give us time. Once they won the lawsuit, it would have set a pattern. The tax income for 1976 was $1,500,000 of which $800,000 was being litigated. Less than $1 million was collected - the banks bound themselves to a pattern of taxation.

Rep. Nordtvedt thinks the issue is not passing HB 150 - the issue is that no attempt was made to adjust revenue so that that sector of the economy paid their share.

HOUSE BILL 150 - Rep. moved that HB 150 BE RECONSIDERED. Rep. Dozier opposed the motion because after two years of consideration, should make a decision. Rep. Sivertsen reminded the banks did not file an action against the state that they won. It was a good citizen act on their part. In looking at the whole broad picture, this is what we came up with.

Rep. Lien said when agreement was reached, didn't agree on a yearly increase. Will support raising the corporation license tax on all corporations.

Rep. Fabrega said the department of revenue assured us they could win, but they did not do so. Rep. Dassinger said if they do take it to court, only the percentage over 6 3/4% would be in question. Rep. Williams feels there is a question of equity - about 50% of corporations are paying an inventory tax which is equivalent to about 1 1/4% of license tax. Let's set the corporate license tax at 8% and give those paying an inventory tax credit for that.

Motion to reconsider failed by a 4-13 roll call vote. Two were absent.

HOUSE BILL 470 - Rep. Fagg moved HB 470 DO NOT PASS. Rep. Burnett voted No. Reps. Reichert and Harrington were absent. Motion succeeded.

HOUSE BILL 796 - Rep. Sivertsen reminded HB 796 was to clarify some inequities with reappraisal had a few years ago. Rep. Dassinger thinks the bill is more comprehensive than that. Rep. Huennekens mentioned that 1972 is the basis of valuation now. Rep. Fabrega said on the 5-year plan can do it on that basis, but have to do it all at that time. Rep. Sivertsen said they used the 1972 book on residences and the 1976 book on commercial properties. Through this bill, will assure that this is not going to take place and that we use the same year for all reappraisals.

Rep. Fabrega said section 8 annoys more taxpayers than anything else. STAB might be more reluctant to agree. If it was a very bad practice, all of those affected could come directly to the STAB to get relief. Affects a whole class.

Rep. Fabrega moved HB 796 DO PASS. (Rep. Harrington came in) The department of revenue would not have to notify all the people. Rep. Dassinger voted No. Reps. Robbins, Gilligan, Burnett were absent. Motion succeeded.

HOUSE BILL 795 - Rep. Fabrega moved HB 795 DO PASS. Rep. Nordtvedt opposes. Willia Rep./ feels this puts the emphasis on the wrong place. Should be under the control at the local level. Not in favor of transferring to the state. Rep. Fabrega said the welfare program has been funded up to 13 1/2 mills in each county. This would impose 6 mills statewide recognizing that a person may move. This would be an equalizing formula - still retains local control of the program, but imposes liability of paying for it at the state level. Rep. Dassinger said we have control but they have the money - feels local control would be lost. Rep. Nordtvedt said under the present system in a county they have a public assistance administrator interviewer - if he does not take a person doubtful or marginal into the program, if he doesn't grant them the county services, the county saves those dollars. Under the new proposed system, where money would be equalized all over the state, if the administrator has no incentives to deny to someone of doubtful right, it gets laid on the question of fiscal responsibility. Rep. Vinger asked who will do the screening. Rep. Fabrega anwered the county - the very same people.

Motion that HB 795 DO PASS failed by a roll call vote of 5-10 with 4 absent.

Meeting adjourned at 11:30 a.m.,

Herb Huennekens
REP. HERB HUENNEKENS, Chairman

Jo Lahti
Josephine Lahti, Secretary

46th LEGISLATIVE SESSION

COMMITTEE ON TAXATION

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
45	1/25	3/2	TABLED	3/26					
60	2/8	3/5	3/10						3/10
63	2/16	3/5	3/14				3/14		
72	1/24	2/28	2/28				2/28		
73	1/24	2/28	TABLED	3/29					
80	1/27	3/1	3/1					3/1	
85	1/24	3/1	3/8				3/8		
94	2/15	3/1	3/1				3/1		
125	3/21	Transf. from Local Gov., Re-referred Finance & Claims 3/28							
128	2/8	2/28	2/28				2/28		
150	3/19	3/22	3/26					3/26 & St. of Intent	
181	2/21	3/7	3/17				3/17		
191	2/23	3/7	3/17				3/17		
213	3/28	4/2	4/5				4/5		
221	3/28	4/4	TABLED	4/17					
266	2/1	3/3	TABLED	4/5					

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 22, 1979

The fifty-fifth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Turnage.

ROLL CALL: Roll call found all the members present. A list of the witnesses providing testimony is attached.

CONSIDERATION OF HOUSE BILL 768: Representative Krogg presented this bill which was an act to exempt property of a veteran of foreign wars who died from wounds recieved in a combat zone. He illustrated an example of a veteran who had first been reported as MIA, then KIA, and his accumulated estate was taxed. He said he believed this was not equitable and asked the committee's consideration for this exemption.

Others appearing as proponents of the bill were Mr. Dirkee and Mr. Fleming. The Chairman called for other proponents, however there were none, nor were there opponents. The committee asked a number of questions. Representatives of the Department of Revenue were present and had no objections, however they felt an amendment should be made to limit the exemptions to conform with the federal laws, limiting to those 'killed in combat zones'.

Senator Towe Moved to Amendmend the bill (see attached Committee Report). Motion was carried.

Senator Brown then Moved HB768, As Amended, Be Concurred In. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 573: Representative Roth presented her bill which would provide an incentive to home owners to remodel structures with historical value. She said there are limited funds available for resorting these properties, and at present no grants or other incentives to restore such properties. She felt there should be at the least, a tax exemption to encourage such a program, thus was proposing HB573.

The Chairman called for other proponents or opponents, and as there were none, permitted questions from the committee. Representative Roth, on questioning, said there are 93 certified historical sites in the state, and she volunteered to bring in a copy of this register for the committee's further consideration. Hearing closed.

CONSIDERATION OF HOUSE BILL 150: Representative Lien first spoke to the committee on this bill, saying it was the product of numerous hearings by the interim Revenue Oversight Committee. He said the bill had had complete hearings with Department of Revenue, savings and loan associations and the banking community. He said the committee had attempted to explore all avenues in an effort to arrive at a bill acceptable to all concerned entities, including local governments. He said as the bill came out all the moneys went to local governments and none

to the state. The House Taxation Committee thought there was impact to both entities so they amended the bill to the 80-20 split. Representative Fabrega was present to testify concerning his bill as well, and gave a brief history of the taxing of banks in Montana, saying Congress allowed states to choose different methods to be taxed and Montana had chosen the bank share tax. He said the bill eliminates the tax-free status of the interest from municipal bonds. Also, in order to tax the income from federal securities it is necessary to tax state securities as well. He said the Fiscal Note shows a loss but he felt little credence should be given to it.

He continued, saying in 1980 banks would pay about $5,300,000 in corporation license tax, or about a 400% increase. Due to a negotiated settlement, banks paid over $5 million in tax and after the court decision the banks paid over $1 million in bank share tax; of that amount a great deal was paid voluntarily, he said. He said if you will look at corporation license tax, banks will go from over $1 million to over $5 million and growth projections bring this even higher . The savings and loan associations will pay an estimated $500,000 and under this bill they will pay $800,000 in 1980.

He said under this bill some banks will pay more tax but all of the banks have agreed this is the only thing to do to make the tax equitable. He said further, this would encourage banks to operate more locally, and maybe this would help slow down the flow of bank capital into federal securities.

Mr. Pitts was next witness to testify and stated his agreement with the previous testimony. He gave a number of examples of two nearby banks which paid greatly varied amounts of taxes and said he felt this legislation would tax all of them more equitably. He said 160 banks in 95 cities in the state had been contacted of the results of the study of the Oversight Committee and though many banks would have tax increase, most of them favored this legislation because they believed it gave tax equality. Mr. Bennett also briefly traced the history of bank tax in the state and gave that organization's endorsement of the bill.

Mr. Anderson distributed a review of HB150 showing charts, projected tax incomes for coming years and present tax paid by state banks. He explained further about the compromise reached in 1977, before the problem was put to the Oversight Committee. He also said he was unable to get accurate projections without data from the savings and loan associations. His testimony is contained in Exh. #1. Other proponents were Mr. Albert, who distributed a copy of his testament, see Exh. #2, attached. Other proponents included: Mr. Phillips, Bill Andrews, Earl Johnson, Joe Morse, John Cadby, who stated he represented all 160 banks in the state.

Mary Craig of the Department offered an amendment, see Exh. #3, attached, which would eliminate one of the steps in the process of seeing a portion of the tax was returned to local governments. John Fitzpatrick of the Office of Budget submitted an amendment to change the split to 70-30 to help offset the loss from corporate tax revenue, see Exh. #4. Mr. Zinnecker spoke next and said he was of the opinion held by the banks, that something must be done; however one item

he expressed concern over was the fact that the bill would decrease revenues to local governments and this would increase property taxes. He said it would also decrease valuation and would affecting bonding limitations. He asked that the committee consider the original bill so all the money would go to local government in order to keep property taxes down.

Mr. Mizner testified next, supporting Mr. Zinnecker's comments and said cities and towns have lost taxable valuation in the last several years and hoped the amounts could be raised to help offset some of the losses suffered by cities and towns in those years. Mr. Bulen also stated his agreement with Zinnecker and Mizner.

Chairman Turnage then asked for testimony from opponents and Mr. Canon led off the opposition saying the savings and loan associations take no position with respect to the method of taxation in the bill nor the level of revenue which the bill would generate. He did want to point out some of the effects of the tax as it applies to that association. He distributed considerable written testimony to which he referred in his testimony, see Exh. #5, attached. He also submitted an amendment, part of Exh. #5, attached, which would give a deduction for bad debts incurred.

Following his testimony other opponents rose briefly, to state their objections to the bill and several gave the percentage their taxes would raise, should the bill be passed. First to speak was Mr. Grose who said his firm's taxes would go up 25%; other opponents included Mr. Cadwell, Mr. Firsbie and Mr. McMillan, all of whom supported the amendments of Mr. Canon, and with them could then consider supporting the bill. Others who stated their support with the amendments of Canon included Mr. Sherrick, Mr. Ritchie, Mr. Pennington, Mr. Hauland, Mr. Johnson, Mr. Enger, Mr. Jones, Mr. Bulen, Mr. Chumran. Mr. Huss stated they supported the bill as it came out of the House Taxation Committee. He stated that during the months this measure was considered banking groups had set forth figures of profits and losses and the impact of taxes, whereas, savings and loans would not supply any figures. He said the proposals submitted by Canon was presented in HB735 (from 1977 session) and was rejected then.

Chairman Turnage offered Mr. Canon a chance to reply and Mr. Canon said the figures used in his written testimony were derived from the Fiscal Note prepared by the Department of Revenue and would leave it to the committee to make its judgment on them. The sources, he said, are all contained in his prepared testimony.

Representatives Fabrega and Lien were permitted to close their testimony and said all amendments had been considered but would resist going to the 70-30 split. He did feel, however, that the Department's amendment should be considered because of the time and administrative costs that would be sustained by the local governments. Of the $5 million in taxes the ratio is about 4 to 1. Following several additional questions the Chairman announced further questioning would have to be done at a future meeting due to lack of time.

Jean A. Turnage

JEAN A. TURNAGE - CHAIRMAN

.B.
150, 573, 768

DATE MAR. 22, 1979

COMMITTEE ON TAXATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Opp
Gene Phillips	Conrad National Bank	HB150	X	
George D. Anderson	Montana Bankers Assn	HB150	X	
Harold Ritts	" " "	HB 150	X	
Dean H. Allard	" " "	HB150	X	
Robert L. Pennington	Missoula Federal Savings	HB 150	X as amended	
Lloyd Pickering	Great Falls Federal Savings	HB150	X as amended	
DAVE SHERICK	F Fed S&L - Polson	HB150	as amended	
John Mudd	" " "	HB150	as amended	
CLARENCE S FRISBEE	FIRST FED S&L ASSN OF KAL	HB150	X AS AMENDED	
Roy F. Cottrell	Empire Fed S&L of Havre	HB150	X	
Paul J. Chumrau	First Federal S&L Missoula	H 150	X as amended	
Jack Bulen	1st Fed S&L - Gt Falls	HB150	as amended	
Jerry Jones	Security Federal S&L Billings	HB 150	As amended	
HAROLD H. HANSEN	Western Federal S&L Assn Missoula	HB 150	as amended	
Ed Heaney Jr.	Mt Savings & Loan League	HB150	amend	
" "	" " "	" "	" "	
Lee Heiman	Nonbeneficiation Bonds	HB150	X	
Earl W. Johnson	First Fed S&L - Hel	HB 150	X	
Joe Sagar	First Fed Savings & Loan	HB150	✓	
Jeff Ed Lein		HB150	X	
Mary L Eldred	Dept of Revenue	HB150	Neutral	
Paul G. Johnson	Trust Dept First W S & L Assn	HB150	Support as amended	
Robert Jensen	Great Falls Fed S&L Assn	HB150	✓ ✓	
Gene Rowland Jr	Pioneer FS&L	HB150	✓	
Paul Trieplo		HB768	✓	
Tony Cummings	American Legion	HB768	✓	

DATE

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
John Fitzpatrick	OBPP	150	Amend	
Don Rimestad	Mt Assn of Counties	150	no amendment	
GEORGE T. BENNETT	MONT. BKRS ASSN	150	X	
JOHN CADBY	" " "	150	X	
STEVE GROSE	HOME FEDERAL SAVINGS —	150	AS AMENDED	
ROBERT HOENE	MONT SAVINGS AND LOAN LEAGUE	150	AS AMENDED	
Joelle Fellan	Mont. Chamber of Commerce	150		
Don Magnuson	Montana Bankers	150	X	
Larry Hess	Mont Dual Banks	150	X	

(Statement with Secretary)

March 22, 1979

* *

BEFORE THE TAXATION COMMITTEE

OF THE MONTANA SENATE

* *

WRITTEN TESTIMONY OF DEAN H. ALBERT

ON BEHALF OF THE MONTANA BANKERS ASSOCIATION

IN SUPPORT OF HOUSE BILL 150

* *

Mr. Chairman, Members of the Senate Taxation Committee, my name is Dean H. Albert, a member of the Montana Bankers Association, and Vice President of Bank of Montana System, a holding company owning fifteen banks in Montana. The following testimony is submitted in support of House Bill 150 as it is presently written.

I would like to ask this committe not to lose sight of the fact of the substantial support and unanimity of the Revenue Oversight Committee in introducing this bill. Please keep in mind that all of the House of Representative members on that committee joined in signing the bill, and four of the members of this committe were also members of the Revenue Oversight Committee and Senator Severson also joined that committee in its two years of deliberations.

This bill came about as a result of four years of intensive study by the Montana Bankers Association who probed in depth a variety of methods to tax banks and financial institutions. Experts in the area of bank taxation including economists, accountants and tax specialists were involved in developing and presenting to the Revenue Oversight Committee a substantial amount of information relating to the taxation of financial institutions and these presentations were studied in great depth by the Oversight Committee during their two years of deliberation of how best to tax banks. As a result of these in-depth studies it would appear the Revenue Oversight Committee not only agreed with the bankers testimony that banks were grossly discriminated against in the old form of bank taxation, but the recommended taxation as encompassed in this bill was fair and equitable. The Department of Revenue who cooperated in developing data which ultimately resulted in the submission of this bill did not attempt to refute that prior discrimination.

All of the banks in Montana have supported this bill to gain tax equity in spite of the fact many banks will have to pay a greater tax under this bill than they have been paying previously, but are willing to submit to that increase in the interest of equity and fairness as between banks, other financial institutions and corporate business in Montana.

In spite of the modest decrease in revenues as projected if this bill is adopted, the Committee should be aware that the new form of taxation will have a tremendous impact on some institutions. If the bill had been in effect during 1978 the taxes on banks in our corporation would have increased approximately $16,000.00, or about 6.4% over the capital tax paid that same year. Under the new bill only three of our fifteen banks would have experienced any tax reduction, but as an example of what some banks may experience under the bill if passed in its present form. One of our banks that in 1978 paid a capital tax of $3,219.00 under this bill would have paid $8,226.00 or an increase of 155%. A larger example in both dollars and percentage is another bank which paid $11,196.00 and under this bill would have paid $30,912.00, an increase of 176%. A further outstanding example, and perhaps other banks will feel this impact, is a bank which paid $1,327.00 and under this bill would pay $7,734.00, an increase of 482%, or nearly six times as much as under the old capital tax law. My point is that in spite of these substantial increases affecting some banks in Montana, bankers are unanimous in support of the bill in order to gain fairness and equity in the taxation of financial institutions. Let me close by saying, in summary, that four years of intensive study brought this bill about, two years of deliberation by the Interim Revenue Oversight Committee has confirmed the equity and fairness of this legislation and hearings before the House Committee on Taxation and the House Subcommittee on Taxation has supported these conclusions and a substantial margin of the House of Representatives have endorsed this as the best means of taxation of financial institutions and my personal recommendation to the Committee is to recommend the bill do pass in its present form.

Respectfully submitted,

Dean H. Albert

Dean H. Albert

SUGGESTED AMENDMENTS TO HOUSE BILL 150

Exhibit 3
D.R. Amendments

1. Page 9, line 8
   Strike: 5
   Insert: 6

2. Page 9
   Line 17
   Following: Section 5.
   Strike: remainder of line 17 through line 12 page 10.
   Insert: Department of Revenue - special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations the department of revenue shall transmit to the county treasurer in which the business is located the revenues calculated under Section 6 subsection (B).

   Renumber: subsequent subsections.

3. Page 11 line 8
   Following: are
   Strike: collecting the taxes.

4. Page 11 line 10
   Following: Section 6.
   Strike: remainder of line 10 through line 18 page 11
   Insert: Distribution of corporation license taxes collected from banks or savings and loan associations. (1) All corporation license taxes collected from banks or savings and loan associations shall be distributed in the following manner:

   A) 20% must be remitted to the State Treasurer to be allocated as provided in 15-1-501(2):

   B) 80% must be allocated to various taxing jurisdictions within the county or counties in which the bank or savings and loan association is located.

Section 2 -

24 -
.25

Amendments to HB 150

1. Page 11, line 14

   Strike: "20%"
   Insert: "30%"

2. Page 11, line 16

   Strike: "80%"
   Insert: "70%"

Amend. #1

3-22

Comm

Exh. #5

3-22

HOUSE BILL 150
The Financial Institutions Tax Act

HB 150 is the Montana Bankers Association-sponsored bill to replace the revenue local government loses as a result of the elimination of the tax on bank shares. The banks contested the constitutionality of this tax and the Montana Supreme Court held that the tax on bank shares to the extent that the value of shares included obligations of the United States was unconstitutional.

To replace this revenue to local governments which in 1976 amounted to $6.1 M the banks in 1977 lobbied through HB 735 which allowed a partial deduction for federal obligations. This measure expired by its terms on January 1, 1979. Below is a comparison of taxes banks paid to local government before and after the enactment of this tax. The amount of corporation license tax banks and S & L's paid to the state is also shown.

	1976	1977	1978	1979
Taxable value of bank shares	24.3M	18.9M	21.5M	24M
Taxes paid to: Local Government	6.1M	4.8M	5.4M	
State	.8M	.8M	.96M	

Department of Revenue, Taxation of Financial Institutions in Montana

Under HB 150 banks and savings and loan associations will continue to pay the corporation license tax of 6 3/4% on net income augmented by the income from state, local and federal obligations which have heretofore been exempt from state taxation. All of the income will then be turned back to local government in lieu of the revenue previously generated by the shares tax. Previously all proceeds from the corporation license tax came to the state general fund. Under this proposal 80% of it will go to local governments and 20% to the state. For FY 80 and 81 the revenue impact is as follows:

	80% Local Government	20% State
Total Revenues	FY 80	FY 81
Proposed	5,900,000	6,036,000
Current	7,990,000	8,660,000
Difference	(2,090,000)	(2,574,000)
Local Government		
Proposed	4,720,000	4,869,000
Current	6,000,000	6,500,000
Difference	(1,280,000)	(1,631,000)

PROPOSED AMENDMENT TO HOUSE BILL NO. 150
(Third Reading Copy)

1. Title, line 13.
Following: "ASSOCIATIONS;"
Insert: "PROVIDING FOR THE DEDUCTIBILITY FROM GROSS INCOME OF ADDITIONS TO A BAD DEBT RESERVE ACCOUNT IN ACCORDANCE WITH THE INTERNAL REVENUE CODE;"

2. Page 5.
Following: line 7
Insert: (b) In lieu of any deduction for bad debts losses under subsection (2) (a) above, there shall be allowed a deduction by any savings and loan association for a reasonable addition to a reserve for bad debts as provided under section 593 of the Internal Revenue Code of 1954, or as section 593 shall be labeled or amended.

Renumber: subsequent subsection.

Date MAR. 22, 1979

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

SENATE

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 26, 1979

The fifty-eighth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Turnage.

ROLL CALL: Roll call found all the members present with the exception of Senators Manley and Roskie, who were excused. Witnesses providing testimony are listed on attached Registers.

CONSIDERATION OF HJR42: Representative Azzara distributed several items which concerned Greenbelt laws and their affect on properties in the state, and said there have been so many difficulties with the appraisal of agricultural lands, many problems have been created. For this reason he was introducing this resolution in the hopes of having such study done. Exh. #1 and 2 are attached, illustrating some of the testimony he referred to in his introduction. Also testifying was Dennis Cole with the Planning Division of the Department of Community Affairs. He explained some of the problems that had been encountered by property owners who must pay the rollback taxes in other states and agreed there should be a study on the matter. He said often that the rollback taxes result in hidden costs to the lot buyer and too, that the rollback tax often works contrary to its intent by placing higher penalty on the taxpayer.

The Chairman called for other proponents or opponents and there being none, permitted some discussion of the problem by the committee. Mr. Burr of the Department of Revenue responded to one of the queries saying when the land use is changed the tax is also changed. Rollback tax is not put on the property until the following year, he stated. Representative Azaara said some of his concerns were that a great deal of prime agricultural land is being gobbled up, sometimes whether the owner wishes to sell or not and he was therefore interested in whether the rollback tax should be increased, or estimated over a longer period of time. Also, he wondered if it is an appropriate mechanism to taxing such lands, whether taxes on agricultural land should be assessed differently, also what constitutes 'prime land.' Following some additional discussion, hearing on HJR42 was closed.

Discussion then began on HB150 and the amendments that had been proposed to the bill. The bill is the bank tax bill and was up for the committee's executive action. They discussed the loss which the state and counties would sustain and the 80-20 split. Following the implications of the fiscal impact, the committee voted to move the bill:

Senator McCallum Moved HB150 Be Concurred In. Motion withdrawn.

The committee then discussed the Statement of Intent they considered adopting and then moved such statement. On motion by Senator Towe, Statement of Intent for HB150 was Adopted. Motion carried. Amendments were then discussed and adopted on motion by Senator Towe.

Senator McCallum then Moved HB150 and its Statement of Intent,

and Amendments, be Concurred In. Motion carried. Note for the record "No" vote cast by Senator Norman.

Chairman Turnage then asked the committee to consider HB573, already heard by the committee. They discussed the fact that there is a federal deduction that can be claimed by those who restore historically-significant buildings. They also looked at the register of such buildings, see Exh #3, attached, and noted there are many of them in the state and that several of such structures are restored, owners claiming the federal deduction, for other than just the historical value.

Senator Watt Moved HB573 be Tabled. Motion carried.

HB45 was then discussed and an explanation of the bill was distributed to the committee, see Exh. #3. Researcher Terry Cohea had researched the bill to see how closely it parallelled the federal revenue bond act. Discussion then followed and the problems possible with the counties operating some of the projects possible under the bill's provisions.

Following this discussion the meeting was adjourned.

JEAN A. TURNAGE - CHAIRMAN

SENATE COMMITTEE TAXATION

Date 3-26-79 Time 8:35 Bill No. 150

NAME	YES	NO
SEN. GOODOVER (Vice Chairman)		
SEN. BROWN		
SEN. HAGER		
SEN. MANLEY (Absent - Excused)		
SEN. MANNING		
SEN. McCOLLUM		
SEN. NORMAN		X
SEN. ROSKIE (Absent - Excused)		
SEN. SEVERSON		
SEN. TOWE		
SEN. WATT		
CHAIRMAN TURNAGE		

Nita Fjeseth
Secretary

Jean A. Turnage
Chairman

Motion: Be Conc. In.
As Amended
Statement of P.T.F.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 26 19 79

MR. President

We, your committee on Taxation

having had under consideration Statement of Intent, House Bill No. 150

Respectfully report as follows: That Statement of Intent, House Bill No. 150 be adopted.

STATEMENT OF INTENT RE: HB 150

In granting the Department of Revenue rule-making authority in section 6(4), the Senate Taxation Committee intends that the distribution be based on a comparison of total assets or total resources attributable to the branch as opposed to total resources of the main office or according to some other equitable means of determining the distribution.

DO PASS

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 17 19 79

MR. President

We, your committee on Taxation

having had under consideration House Bill No. 150

Respectfully report as follows: That House Bill No. 150,
third reading bill, be amended as follows:

1. Title, line 11.
Strike: "COLLECTING AND"

2. Page 2, line 8.
Following: "governments,"
Strike: "all"
Insert: "a portion of the"

3. Page 2.
Following: line 9
Strike: "collected"
Insert: "received"

4. Page 9, lines 7 and 8.
Strike: ", except as provided in [section 5],"

5. Page 9, line 17.
Following: "Section 5."

DO PASS

(continued)

Chairman

March 26 19 79

5. continued
Strike: remainder of line 17 through line 12 on page 10
Insert: "Department of Revenue - special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer in which the business is located the revenues calculated under [section 6(b)]."

6. Page 10, lines 18 and 19.
Strike: "and the county treasurer of the county in which the business is located"

7. Page 10, line 22.
Following: "for"
Insert: "their portion of the"
Following: "overpayment"
Insert: "received"

8. Page 11, line 8.
Strike: "collecting the taxes,"
Following: "refunds"
Strike: ","

9. Page 11, line 11.
Following: "collected"
Strike: "by county treasurers"
Insert: "from banks or savingsand loan associations"

10. Page 11, line 12.
Following: "taxes"
Insert: "collected from banks and savings and loan associations"

And, as so amended,
BE CONCURRED IN

JEAN A. TURNAGE,
Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

Date MAR. 26 1979

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY			✓
SEN. MANNING			
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE			✓
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

The bill would also allow counties (p. 4, lines 9 - 22) to enter into long-term agreements with industrial plants to provide water or sewer facilities to reduce the plant's pollution of water. The plant would reimburse the county for the costs of operating the system.

E. What interest will the bonds bear?

The interest rate may not exceed 9% annually (p. 12, lines 17 - 19)

F. How are the bonds sold?

The bonds may be sold privately to any agency of the federal government or by public sale to anyone else. If the bonds are to be sold publicly, notice must be given in local, state, and national newspapers.

G. May the county issue refunding bonds?

Sections 22 through 26 establish the authority and procedures for issuing refunding revenue bonds to refund interest and principal if the revenue pledged to pay the bonds is not sufficien

TOC:hm

STATEMENT OF INTENT RE: HB 150

In granting the Department of Revenue rule-making authority in section 6(4), the Senate Taxation Committee intends that the distribution be based on a comparison of total assets or total resources attributable to the branch as opposed to total resources of the main office or according to some other equitable means of determining the distribution.

HB 150

HOUSE BILL NO. 150

INTRODUCED BY FABREGA, HUENNEKENS, WILLIAMS, FAGG, SIVERTSEN, VINCENT

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE METHOD OF TAXING BANKS AND SAVINGS AND LOAN ASSOCIATIONS FOR LOCAL GOVERNMENTS; REMOVING THE CORPORATION LICENSE TAX EXEMPTION FOR INTEREST FROM STATE AND LOCAL OBLIGATIONS; REPEALING THE TAX ON MONEYED CAPITAL AND SHARES OF BANKS; PROVIDING FOR A DIFFERENT METHOD OF ~~COLLECTING AND~~ DISTRIBUTING CORPORATION LICENSE TAXES PAID BY BANKS AND SAVINGS AND LOAN ASSOCIATIONS; AMENDING SECTIONS 7-6-206, 15-1-501, 15-8-104, 15-8-111, 15-24-701, 15-24-801, 15-31-101, 15-31-114, 15-31-502, 17-5-408, 20-9-343, AND 32-1-413, MCA; REPEALING SECTIONS 15-6-106, 15-24-501 THROUGH 15-24-508, AND 15-24-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. The legislature recognizes that the property tax on moneyed capital and bank shares is an important element in the tax bases of many local governments. Since, however, the current method of valuing bank shares has legal defects, may be causing the undercapitalization of Montana's banks, and imposes an inequitable tax burden on some financial institutions, the legislature hereby repeals this tax. Banks and savings and loan associations will be taxed on a more equitable basis, their net income. To make their basis for computing net income comparable to other businesses, the legislature repeals the corporation license tax deduction for interest on public obligations. To replace the property tax revenue lost to local governments, ~~all~~ A PORTION OF THE corporation license taxes paid by banks and savings and loan associations will be ~~collected~~ RECEIVED by counties and distributed to the various local governments, based on their current mill levies.

Section 2. Section 15-31-101, MCA, is amended to read:

"15-31-101. Organizations subject to tax. (1) The term "corporation" includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity, and all other corporations whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country, or the United States.

(2) The terms "engaged in business" and "doing business" both mean actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(3) Every corporation, except as hereinafter provided and except as provided in 33-2-705(5), engaged in business

REFERENCE BILL

in the state of Montana shall annually pay to the state treasurer as a license fee for the privilege of carrying on business in this state such percentage or percentages of its total net income for the preceding taxable year at the rate hereinafter set forth. In the case of corporations having income from business activity which is taxable both within and without this state, the license fee shall be measured by the net income derived from or attributable to Montana sources as determined under part 3. This tax is due and payable on the 15th day of the 5th month following the close of the taxable year of the corporation; however, the tax becomes a lien as provided in this chapter on the last day of the taxable year in which the income was earned and is for the privilege of carrying on business in this state for the taxable year in which the income was earned.

(4) Every bank organized under the laws of the state of Montana, ~~or~~ of any other state, ~~and~~ or ~~every--national bank-organized-under-the-laws~~ of the United States and every savings and loan association organized under the laws of this state or of the United States ~~are~~ is subject to the Montana corporation license tax provided for under this chapter. For taxable years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548)."

Section 3. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. In computing the net income, the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for

depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) (i) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of this subsection. The net operating loss deduction is the aggregate of net operating loss carryovers to such taxable period plus the net operating loss carrybacks to such taxable period. The term "net operating loss" means the excess of the deductions allowed by this section, 15-31-114, over the gross income, with the modifications specified in (ii) of this subsection. If for any taxable period beginning after December 31, 1970, a net operating loss is sustained, such loss shall be a net operating loss carryback to each of the three taxable periods preceding the taxable period of such loss and shall be a net operating loss carryover to each of the five taxable periods following the taxable period of such loss. A net operating loss for any taxable period ending after December 31, 1975, in addition to being a net operating loss

carryback to each of the three preceding taxable periods, shall be a net operating loss carryover to each of the seven taxable periods following the taxable period of such loss. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the net income for each of the prior taxable periods to which such loss was carried. For purposes of the preceding sentence, the net income for such prior taxable period shall be computed with the modifications specified in (ii)(B) of this subsection and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any taxable period thereafter, and the net income so computed shall not be considered to be less than zero.

(ii) The modifications referred to in (i) of this subsection shall be as follows:

(A) No net operating loss deduction shall be allowed.

(B) The deduction for depletion shall not exceed the amount which would be allowable if computed under the cost method.

(C) Any net operating loss carried over to any taxable years beginning after December 31, 1978, must be calculated under the provisions of this section effective for the taxable year for which the return claiming the net operating loss carryover is filed.

(iii) A net operating loss deduction shall be allowed only with regard to losses attributable to the business carried on within the state of Montana.

(iv) In the case of a merger of corporations, the surviving corporation shall not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity shall not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

(v) Notwithstanding the provisions of 15-31-531, interest shall not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

(vi) The net operating loss deduction shall not be allowed with respect to taxable periods which ended on or before December 31, 1970, but shall be allowed only with respect to taxable periods beginning on or after January 1, 1971.

(3) In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements; such reasonable allowance to be determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal Revenue

Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for corporation license tax purposes shall be the same as the elections made for federal income tax purposes.

(4) The amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this part.

~~(5)--Interest-income-from-obligations-of-the--state--or any-political-subdivision-or-municipality-of-the-state.~~

~~(6)~~(5) (a) Taxes paid within the year except the following:

(i) Taxes imposed by this part.

(ii) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

(iii) Taxes on or according to or measured by net income or profits imposed by authority of the government of the United States.

(iv) Taxes imposed by any other state or country upon or measured by net income or profits.

(b) Taxes deductible under this part shall be construed to include taxes imposed by any county, school

district, or municipality of this state.

~~(7)~~(6) That portion of an energy-related investment allowed as a deduction under 15-32-103."

Section 4. Section 15-31-502, MCA, is amended to read:

"15-31-502. Assessment and payment of tax, penalty, and interest. All taxpayers shall compute the amount of tax payable under this chapter and shall remit such amount to the department of revenue~~, except as provided in [section 5]~~ on or before the 15th day of the 5th month following the close of the taxable period. If the tax is not paid on or before the due date, there shall be assessed a penalty of 10% of the amount of the tax unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of 9% per annum from the due date until paid."

NEW SECTION. ~~Banks and savings and loan associations -- special provisions for filing returns and payment of taxes.~~ DEPARTMENT OF REVENUE -- SPECIAL DUTIES FOR TRANSMITTING CORPORATION LICENSE TAX REVENUES COLLECTED FROM BANKS OR SAVINGS AND LOAN ASSOCIATIONS TO COUNTIES. ~~(1) County treasurers shall collect corporation license taxes paid by banks and savings and loan associations.~~

~~(2) Within 10 days after receiving a corporation license tax return from a bank or savings and loan association, the department of revenue shall transmit to the county treasurer of the county in which the business is located a statement showing its tax liability. To insure the confidentiality of the return, as required under 15-31-507, the statement sent to the treasurer shall show only the name and address of the bank or savings and loan association and its tax liability.~~

~~(3) Within 5 days after receiving a corporation license tax statement, a county treasurer shall send to the business a demand for payment in the amount shown on the statement.~~

~~(4) The bank or savings and loan association shall make payment to the county treasurer within 5 days after receiving a demand for payment.~~ (1) WITHIN 30 DAYS AFTER RECEIVING CORPORATION LICENSE TAX RETURNS AND PAYMENTS FROM BANKS OR SAVINGS AND LOAN ASSOCIATIONS, THE DEPARTMENT OF REVENUE SHALL TRANSMIT TO THE COUNTY TREASURER OF THE COUNTY IN WHICH THE BUSINESS IS LOCATED THE REVENUES CALCULATED UNDER [SECTION 6(1)(B)].

~~(5)~~(2) If the department of revenue determines, under the provisions of 15-31-503 and 15-31-531, that a bank or savings and loan association owes more taxes than shown on the original return or has paid more than the tax, penalty, or interest due in any year, it shall notify the bank or

savings and loan association ~~and the county treasurer of the county in which the business is located~~. Additional payment is due within 10 days after receipt of the final determination of taxes due. County treasurers shall issue warrants for THEIR PORTION OF THE overpayment RECEIVED and interest, as provided in 15-31-531.

~~(6)~~(3) The department shall continue to exercise all its duties and powers outlined in this title with respect to auditing returns and enforcing payment of the corporation license taxes owed by banks and savings and loan associations. Any delinquent taxes collected from the sale of property of a bank or savings and loan association under the provisions of 15-31-525 shall be transmitted to the county in which the corporation owing the delinquent taxes is located. The only duties of the county treasurers in this regard are ~~collecting the taxes,~~ issuing refunds, and distributing the taxes to local taxing jurisdictions.

NEW SECTION. Section 6. Distribution of corporation license taxes collected ~~by county treasurers~~ FROM BANKS OR SAVINGS AND LOAN ASSOCIATIONS. (1) All corporation license taxes collected ~~by county treasurers~~ FROM BANKS AND SAVINGS AND LOAN ASSOCIATIONS shall be distributed IN THE FOLLOWING MANNER:

(A) 20% MUST BE REMITTED TO THE STATE TREASURER TO BE ALLOCATED AS PROVIDED IN 15-1-501(2); AND

(B) 80% MUST BE ALLOCATED to the various taxing jurisdictions within the county in which the bank or savings and loan association is located.

(2) The corporation license taxes collected DISTRIBUTED UNDER SUBSECTION (1)(B) shall be allocated to each taxing jurisdiction in the proportion that its mill levy for that fiscal year bears to the total mill levy of the taxing authorities of the district in which the bank or savings and loan association is located.

(3) "Taxing jurisdictions" means, for the purposes of this section, all taxing authorities within a county permitted under state law to levy mills against the taxable value of property in the taxing district in which the bank or savings and loan association is located.

(4) If a return filed by a bank or savings and loan association involves branches or offices in ~~multiple taxing jurisdictions~~ MORE THAN ONE ~~COUNTY~~ TAXING JURISDICTION, the department of revenue shall provide a method by rule for equitable distribution AMONG THOSE ~~COUNTIES~~ TAXING JURISDICTIONS.

NEW SECTION. Section 7. Moneyed capital and shares of banks exempt. (1) Moneyed capital and shares of banks are exempt from taxation.

(2) "Moneyed capital" means money, bonds, notes, and other evidence of indebtedness, including evidence of

indebtedness secured by a mortgage on real or personal property, in the hands of individual citizens and corporations coming into competition with the business of national banks or employed in conducting a banking or investment business.

Section 8. Section 7-6-206, MCA, is amended to read:

"7-6-206. Time deposits. (1) Such public money not necessary for immediate use by such county, city, or town which is not invested in direct obligations of the United States government as authorized in 7-6-202 may be placed in time or savings deposits with any bank, ~~building and loan association~~, or savings and loan association in the county, city, or town.

(2) When more than one bank, ~~building and loan association~~, or savings and loan association is available in any county for the deposit of such county funds or in any city or town for the deposit of such city or town funds, such funds may be distributed ratably among all of such banks, ~~building and loan associations~~, and savings and loan associations qualifying therefor and substantially in proportion to the total property taxes paid during the preceding year in such county or the county in which such city or town is located, ~~including taxes on shares of bank stock~~, and the corporation license taxes paid by each such bank, ~~building and loan association~~, or savings and loan

association willing to receive such time or savings deposits under the terms of this part.

(3) In lieu of a ratable distribution among banks, ~~building and loan associations~~, and savings and loan associations within the county, city, or town, the local governing body may solicit bids without advertising from any bank, ~~building and loan association~~, or savings and loan association in a county having at least two such financial institutions. Such institutions may request in writing that they be listed for solicitation on bids for public money not necessary for immediate use by the unit of local government. In counties having less than two such institutions, the local governing body may solicit bids from and deposit public money in such institutions in neighboring counties unless the local financial institution agrees to pay the same rate of interest bid by the neighboring financial institutions. The governing body may solicit bids by notice sent by mail to the investment institutions whose names are listed as provided herein. The provisions of this subsection shall be considered as meeting the requirements of subsection (2)."

Section 9. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of moneys from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all

moneys received by him from the collection of:

(a) automobile driver's license fees under subsections (1) through (6) of 61-5-111;

(b) electric energy producer's license taxes under chapter 51;

(c) metalliferous mines license taxes under chapter 37;

(d) oil producer's license taxes under chapter 36;

(e) liquor license taxes under Title 16;

(f) telephone license taxes under chapter 53; and

(g) inheritance and estate taxes under Title 72, chapter 16.

(2) Seventy-five percent of all moneys received from the collection of income taxes under chapter 30 and corporation license and income taxes under chapter 31, except as provided in [section 6], shall be deposited in the general fund subject to the prior pledge and appropriation of such income tax and corporation license tax collections for the payment of long-range building program bonds. The remaining 25% of the proceeds of the corporation license tax, excluding that ~~collected~~ ALLOCATED TO THE COUNTIES under [section 6], corporation income tax, and income tax shall be deposited to the credit of the earmarked revenue fund for state equalization aid to the public schools of Montana.

(3) The state treasurer shall also deposit to the credit of the state general fund all moneys received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code."

Section 10. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- costs of audit paid by county -- penalty for underreporting. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells, ~~bank shares~~, business inventories, and all other types of property subject to ad valorem taxation. The costs incurred by the department, including per diem and mileage expense as well as salaries and benefits, shall be reimbursed from the amount collected as a result of the audit. In the event the property subject to audit is assessed within two or more counties, the department shall allocate the cost among the collections due each of the counties. Reimbursement shall be made solely for audit expense and not for other services provided to the counties by the department and may not exceed the amounts collected.

(2) The taxable value of any underreported portion of any business inventory found as a result of an audit to have been underreported by the owner shall be increased by 25% as

a penalty for underreporting.

(3) The 25% penalty may be waived by the department if reasonable cause for failure to report the total value of a business inventory is provided to the department.

(4) The cost of the audit shall be paid to the state treasurer for credit to the general fund."

Section 11. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in class one and classes seven through eighteen. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in class one and classes seven through eighteen is the percentage of market value established for each class of property in 15-6-102 and 15-6-108 through 15-6-119.

(5) The assessed value of properties in 15-6-103, ~~15-6-104, 15-6-105,~~ through 15-6-107, and 15-6-120 is as follows:

~~(a) Property in 15-6-106, under class five, is assessed at 100% of book value by the method established in 15-6-106 and the sections cited therein.~~

~~(b)~~(a) Properties in 15-6-103, under class two, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

~~(c)~~(b) Properties in 15-6-104, 15-6-105, and 15-6-120, under classes three, four, and nineteen are assessed at 100% of the annual gross proceeds.

~~(d)~~(c) Properties in 15-6-107, under class six, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(6) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(7) The taxable value of all property in classes two through four and class six is the percentage of assessed

value established in 15-6-103, 15-6-104, 15-6-105, through and 15-6-107, and 15-6-120 for each class of property."

Section 12. Section 15-24-701, MCA, is amended to read:

"15-24-701. Production credit associations -- assessment and payment. ~~(1)~~ Every production credit association organized under the provisions of section 1131d of Title 12, United States Codes Annotated, shall be assessed for and pay taxes upon all real and personal property owned by such association ~~and also upon the moneyed capital employed in such business, such moneyed capital to be ascertained by deducting from the amount of loans, including loans secured by mortgage on real estate or personal property, the amount of such loans discounted and any indebtedness representing money borrowed for use as moneyed capital. Said moneyed capital shall be taxed at the same rate and take the same classification as shares of stock in a national bank or moneyed capital coming into substantial competition therewith.~~

~~(2) The secretary or managing agent of every such association shall furnish to the assessor of the county in which the principal office of such association is located, within 5 days after demand therefor, a statement in such detail as the department of revenue or its agent may require, verified by his oath, of the resources and~~

~~liabilities of such association as disclosed by its books at the close of business on December 31 of the preceding year, if such secretary or managing agent shall fail to make the statement hereby required, the department or its agent shall forthwith obtain such information from any other available source, and for this purpose it shall have access to the books of such association. The department or its agent shall thereupon make an assessment of the real estate and personal property owned by such association and of the moneyed capital employed in the business of such association, which assessment shall be as fair and equitable as it may be able to make from the best information available, or said assessor may for the purpose of said assessment adopt the figures disclosed by any prior report made by such association to any state or federal officer pursuant to any state or federal law. Any person required by this section to make the statement hereinabove provided who shall fail to furnish the same shall be guilty of a misdemeanor and shall be punished accordingly.~~"

Section 13. Section 15-24-801, MCA, is amended to read:

"15-24-801. ~~Building~~ Savings and loan associations -- taxation. ~~(1)~~ Every ~~building and loan or~~ savings and loan association subject to regulation under Title 32, chapter 2, shall be assessed for and pay taxes upon all real and

personal property owned by the association ~~and also upon the moneyed capital employed in the business. The moneyed capital shall be ascertained by deducting from the amount of bonds, notes, and other evidences of indebtedness of the association, including evidences of indebtedness secured by mortgage on real estate or personal property, the amount standing to the credit of the members of an association upon its books and any indebtedness representing money borrowed for use as moneyed capital. The moneyed capital as so ascertained shall be taxed at the same rate and take the same classification as shares of stock in a national bank or moneyed capital coming into substantial competition therewith.~~ The secretary of an association shall furnish to the department of revenue or its agent in the county in which the principal office of the association is located, within 5 days after demand, a condensed statement verified by his oath of the resources and liabilities of the association as disclosed by its books at noon on January 1 in each year. If the secretary fails to make the statement hereby required, the department or its agent shall immediately obtain the information from any other available source, and for this purpose it shall have access to the books of the association. The department or its agent shall thereupon make an assessment of the real estate and personal property owned by the association ~~and of the moneyed capital~~

~~employed in the business of the association,~~ which assessment shall be as fair and equitable as it may be able to make from the best information available, or the assessor may, for the purpose of the assessment, adopt the figures disclosed by any prior report made by the association to any state or federal officer under a state or federal law. A person required by this section to make the statement provided for in this section who fails to furnish it is guilty of a misdemeanor.

~~(2) The amount standing upon its books to the credit of each member of an association shall be considered and held as the individual credit of each member. Each member shall list the shares held by him for taxation at their real value in money in the county of his residence, the same as other credits are listed, except shares from which loans have been made or money advanced by the association, and as to such shares they shall be listed for taxation at the net cash value of the stock, to be ascertained by deducting the loan from the cash value of the shares. Associations organized under or controlled by Title 32, chapter 2, are subject to taxation in no other way.~~"

Section 14. Section 17-5-408, MCA, is amended to read:

"17-5-408. Percentage of income, corporation license, and cigarette tax pledged. (1) The state pledges and appropriates and directs to be credited as received to the

sinking fund account 11% of all money, except as provided in [section 6 of this act], received from the collection of the income tax and the corporation license tax referred to in 15-1-501 and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4), provided that no more than 11% of such tax collections shall be deemed to be pledged for the purpose of 17-5-403(2). The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.'

(2) The state pledges and appropriates and directs to be credited to the sinking fund account 15% of all money received from the collection of the 9-cent excise tax on cigarettes which is levied, imposed, and assessed by 16-11-111(1). The state also pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of each of the excise taxes on cigarettes which are levied, imposed, and assessed by subsection (2) and (3) of 16-11-111, as amended, after the payment and redemption in full of the outstanding bonds for which said taxes have heretofore been pledged and appropriated or after the necessary funds have been set aside for such payment and redemption as provided in this part. The state also pledges and appropriates and

directs to be credited as received to the sinking fund account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed, and assessed by law for that purpose, including the tax levied, imposed, and assessed by 16-11-202. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subsection (2)."

Section 15. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means those moneys deposited in the earmarked revenue fund as required in this section plus any legislative appropriation of moneys from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The following shall be paid into the earmarked revenue fund for state equalization aid to public schools of the state:

(a) 25% of all moneys received from the collection of

income taxes under chapter 30 of Title 15;

(b) 25% of all moneys, except as provided in [section 6 of this act], received from the collection of corporation license taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 10% of the moneys received from the collection of the severance tax on coal under chapter 35 of Title 15;

(d) 62 1/2% of the moneys received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income moneys described in 20-9-341 and 20-9-342;

(f) income from the local impact and education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333 shall be paid into the same earmarked revenue fund."

Section 16. Section 32-1-413, MCA, is amended to read:

"32-1-413. Borrowing money for capital purposes -- status of capital. Notwithstanding any other provision of law, any commercial bank, savings bank, trust company, or investment company, now in existence or which may be hereafter formed, shall have the power to borrow money for

capital purposes upon such terms and conditions as may be approved by the department and for this purpose may issue capital notes or debentures therefor, such notes or debentures to be subordinate in right of payment to the payment in full of all deposits of such bank, savings bank, trust company, or investment company. The amount of money so borrowed shall be considered as capital for the purpose of determining the maximum amount of money that may be loaned by such bank, savings bank, trust company, or investment company to any person, partnership, or corporation and for the purpose of determining the maximum amount of money which such bank may borrow and for all other purposes of bank capital as may be required by law~~, except that the money so borrowed shall not in any event be considered in ascertaining the value and assessment of shares of any bank for the purpose of taxation.~~"

Section 17. Repealer. Sections 15-6-106, 15-24-501 through 15-24-508, and 15-24-603, MCA, are repealed.

Section 18. Effective date. This act is effective for taxable years beginning on or after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 56-79 Amended

FISCAL NOTE

Form BD-15

Compliance with a written request received March 14, 19 79, there is hereby submitted a Fiscal Note for Amended House Bill 150 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

The proposed bill changes the method of taxing banks and savings and loan associations for local governments; removes the corporation license tax exemption for interest from state and local obligations; repeals the tax on moneyed capital and shares of banks; provides for a different method of collecting and distributing corporation license taxes paid by banks and savings and loan associations; and provides an effective date.

ASSUMPTIONS

1. The present method of valuing bank shares is effective through 1978; however, for purposes of comparison, it is assumed to continue throughout the biennium.
2. The historic growth in the revenues from bank shares will continue throughout the biennium.
3. The historic growth in saving and loan association and bank income will continue throughout the biennium.
4. The corporation license tax collected from saving and loan associations and banks will be split with 80% going to local governments and 20% going to the state.
5. The state levy is 6 mills for the university system.

FISCAL IMPACT

	FY 80	FY 81
Corporation License Tax Collections:		
Under current law	$35.000 M	$35.000 M
Under proposed law	34.330 M	34.217 M
Estimated Decrease	($ .670 M)	($ .783 M)
Mill University Levy		
Under current law	$ .14 M	$ .16 M
Under proposed law	0	0
Estimated Decrease	($ .14 M)	($ .16 M)
State Revenue		
Under current law	$35.140 M	$35.160 M
Under proposed law	34.330 M	34.217 M
Estimated Decrease	($ .810 M)	($ .943 M)

(Continued on Page 2)

Richard L. Tracy for
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/15/79

STATE OF MONTANA

REQUEST NO. 56-79 Amd

FISCAL NOTE

Form BD-15

In compliance with a written request received March 14, 19 79, there is hereby submitted a Fiscal Note for Amended House Bill 150 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

FUND INFORMATION

	FY 80	FY 81
General Fund		
under current law	$22.400 M	$22.400 M
under proposed law	21.971 M	21.899 M
Estimated Decrease	($ .429 M)	($ .501 M)
Earmarked Revenue Fund (School Foundation Program)		
under current law	$ 8.750 M	$ 8.750 M
under proposed law	8.583 M	8.554 M
Estimated Decrease	($ .167 M)	($ .196 M)
Sinking Fund		
under current law	$ 3.850 M	$ 3.850 M
under proposed law	3.776 M	3.764 M
Estimated Decrease	($ .074 M)	($ .086 M)
6 Mill University Levy		
under current law	$ .140 M	$ .160 M
under proposed law	0	0
Estimated Decrease	($ .140 M)	($ .160 M)

Revenues from the Earmarked Revenue Account are used to support the Public School Foundation Program. Therefore, any decrease in revenues to that program may necessitate additional support from other sources.

EFFECT ON LOCAL GOVERNMENTS

Local governments would lose $1.280 M in FY80 and $1.631 M in FY81 if this proposal were to be enacted. There will also be a redistribution of revenues amongst local governments as the monies will not necessarily go to the taxing jurisdictions in the same proportions as the bank shares tax. There will be no first half payment for property tax on bank shares in November 1979. The new tax will all be due in May. Corporations may be granted one to six month extensions, which could delay some payments to local governments into the next fiscal year.

LONG-RANGE EFFECTS

The state will lose over $1 million in corporation license tax from saving and loan associations and banks each year this proposal is in effect after the 80-81 biennium.

BUDGET DIRECTOR
Office of Budget and Program Planning

Date:

(Continued on page 3)

STATE OF MONTANA

REQUEST NO. 56-79 Amended

FISCAL NOTE

Form BD-15

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TECHNICAL NOTES

Section 5 starts on page 9 line 17. This section has the returns first coming to the state which transmits the liability to the counties. The counties send a notice to the banks and saving and loan associations. The payment is then made to the county. Section 6 starting on page 11 line 10 then has the county treasurer remit monies to the state. There are several lags and mailings in these two sections. Administration would be much easier if the return and payment came to the state, which is the current system under corporation license tax. The state would then remit 80% of the payment to the counties.

Section 6 paragraph (4) lines 5-9 page 12 has monies from branches in more than one county to be distributed by a Department of Revenue rule. This should be changed to branches in more than one location. There are several saving and loan associations with more than one branch in a county. This may cause a shortfall in revenues to these areas.

PREPARED BY DEPARTMENT OF REVENUE

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: